

FILED

NOV 19 2007

Plaintiff's Name Elbert Thomas Martin
Inmate No. T-28520
Address California Correctional Institution
P.O. Box 107, Tehachapi, CA 93581

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY SE
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

Elbert Thomas Martin

(Name of Plaintiff)

1:07 CV 001661 AWI WVN PC

(Case Number)

vs.

COMPLAINT

John Doe #1, Med. Tech. Asst., et. al.,
M. Roche, MD
R. Cox, MD
T. Friedericks, MD

(Names of all Defendants)

Civil Rights Act, 42 U.S.C. § 1983

I. Previous Lawsuits (list all other previous or pending lawsuits on back of this form):

A. Have you brought any other lawsuits while a prisoner? Yes ___ No X

B. If your answer to A is yes, how many? _____
Describe previous or pending lawsuits in the space below.
(If more than one, use back of paper to continue outlining all lawsuits.)

1. Parties to this previous lawsuit:

Plaintiff N/A

Defendants N/A

2. Court (if Federal Court, give name of District; if State Court, give name of County) _____

3. Docket Number _____

4. Assigned Judge _____

5. Disposition (For example: Was the case dismissed? Was it appealed? Is it still pending?) _____

6. Filing date (approx.) _____

7. Disposition date (approx.) _____

II. Exhaustion of Administrative Remedies

A. Is there an inmate appeal or administrative remedy process available at your institution?

Yes X No

B. Have you filed an appeal or grievance concerning ALL of the facts contained in this complaint?

Yes X No

If your answer is no, explain why not N/A

C. Is the process completed?

Yes X If your answer is yes, briefly explain what happened at each level.

The plaintiff has filed several "602" grievance concerning all issues contained in this civil action which were all denied, and/or partially granted.

No N/A

If your answer is no, explain why not.

NOTICE: Pursuant to the Prison Litigation Reform Act of 1995, "[n]o action shall be brought with respect to prison conditions under [42 U.S.C. § 1983], or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." 42 U.S.C. § 1997e(a). If there is an inmate appeal or administrative remedy process available at your institution, you may not file an action under Section 1983, or any other federal law, until you have first completed (exhausted) the process available at your institution. You are required to complete (exhaust) the inmate appeal or administrative remedy process before filing suit, regardless of the relief offered by the process. Booth v. Churner, 532 U.S. 731, 741 (2001); McKinney v. Carey, 311 F.3d 1198, 1999 (9th Cir. 2002). Even if you are seeking only money damages and the inmate appeal or administrative remedy process does not provide money, you must exhaust the process before filing suit. Booth, 532 U.S. at 734

III. Defendants

(In Item A below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item B for the names, positions and places of employment of any additional defendants.)

- A. Defendant John Doe #1 is employed as Medical Technician Assistant at Federal Detention Center - Los Angeles, CA
- B. Additional defendants (see attached sheets) pages. #i, #ii, #iii.

IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra sheets if necessary.)

1. On January 6, 2002 the plaintiff complained and sought medical attention for a pre-existing back injury while incarcerated at the Federal Detention Center - 535 North Alameda Street - Los Angeles, CA..

2. Where on that same day the plaintiff saw the defendant, John Doe #1, Medical Technician Assistant, whom at the time prescribed the drug "Neurontin" 800 mg., for the plaintiff's pain.

3. And, for the next (6) months until the plaintiff was transferred from said Federal Institution to a California State Prison (High Desert) on June 13, 2002, as the plaintiff had experienced adverse affects from the drug "Neurontin" causing the plaintiff to stay thirsty, increase saliva and blisters in plaintiff's mouth, as plaintiff's motor skills

(see attached sheets) pages, #1 through #9

V. Relief.

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

The plaintiff is requesting this Honorable Court to award the plaintiff compensatory damages, punitive damages, attorney fees, and future medical expenses as follows; 1) Compensatory damages in the amount of \$50,000.00 dollars from each named defendants. 2) Punitive damages in the amount of \$450,000.00 dollars from each named defendants. 3) Attorney fees to be determined by the number of hours the plaintiff has spent in the overall prosecution of this civil action. 4) And, future medical expenses to be determine by this Honorable Court.
-(see attached "Injunction Relief")

I declare under penalty of perjury that the foregoing is true and correct.

Date 11-15-2007

Signature of Plaintiff Elbert J. Martin

1 III. Defendants (continued)

2 B. M. Roche, MD - medical doctor - High Desert State Pri-
3 son, P.O. Box 3030, Susanville, CA 96127-3030.

4 C. R. Cox, MD - medical doctor - High Desert State Prison,
5 P.O. Box 3030, Susanville, CA 96127-3030.

6 D. T. Friederichs, MD - medical doctor - California Train-
7 ing Facility, Central, P.O. Box 689, Soledad, CA 93960.

8 E. Cornell Clark, MD - medical doctor, California Train-
9 ing Facility, Central, P.O. Box 689, Soledad, CA 93960.

10 F. Joseph Chudy, MD - Chief Medical Officer - California
11 Training Facility, Central, P.O. Box 689, Soledad, CA 93960.

12 G. C. Sinnaco, MD - medical doctor - California Training
13 Facility, Central, P.O. Box 689, Soledad, CA 93960.

14 H. R.A. Perez - Lieutenant - California Training Facility,
15 Central, P.O. Box 689, Soledad, CA 93960.

16 I. John Doe #2 - R&R Sergeant - California Training Facil-
17 ity, Central, P.O. Box 689, Soledad, CA 93960.

18 J. John Doe #3 - Sergeant - California Men's Colony, P.O.
19 Box 8101, San Luis Obispo, CA 93109-8101.

20 K. John Doe #4 - Correctional Officer - California Men's
21 Colony, P.O. Box 8101, San Luis Obispo, CA 93109-8101.

22 L. John Doe #5 - Correctional Officer - California Men's
23 Colony, San Luis Obispo, CA 93109-8101.

24 M. D. Carey - CDA(A) & Chairperson - California Men's
25 Colony, P.O. Box 8101, San Luis Obispo, CA 93109-8101.

26 N. T. Cook - Facility Captain - California Men's Colony,
27 P.O. Box 8101, San Luis Obispo, CA 93109-8101.

(i)

1 III. Defendants (continued)

2 Box 8101, San Luis Obispo, CA 93109-8101.

3 BB. Anthony Wild - CEO, Parke-Davis - 201 Tabor Road,
4 Morris Plains, NJ 07950.

5 CC. John, and/or Jane Does #6 through #15 - employees -
6 201 Tabor Road, Morris Plains, NJ 07950.

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(iii)



1 were impaired with dizziness, decrease in body weight with con-
2 tinuous chills, and joint stiffness.

3 4. Where, after numerous submissions of (CDC) forms 7362
4 complaining to Medical Staff at High Desert State Prison the
5 defendant, Dr. M. Roche ordered on October 5, 2002 a "MRI" of
6 the (Lumbosacral Spine)(see Exhibit-A).

7 5. It should be noted that the plaintiff - when transfer-
8 red from the Federal Institution, the medications, "Neurontin"
9 800 mg. was discontinued for a period of (3) months and (25)
10 days.

11 6. Nevertheless, the plaintiff was not placed back on the
12 "Neurontin" 800 mg. by the defendant, Dr. M. Roche until after
13 the October 5th (MRI) was done at High Desert State Prison, and
14 up to the time that where the plaintiff continued to complain
15 of severe pain to his lower back leaving discomfort to the
16 plaintiff's lower abdomen, and inner part of both the plaintiff
17 thighs.

18 7. Which at that point in time the plaintiff continued on
19 the meds of "Neurontin" for pain for the benefit of a period of
20 (38) months where the adverse side effects worsen to the point
21 the plaintiff's right testicle began swelling impairing the
22 plaintiff's ability to stand, stoop, and walk.

23 8. However, during the course of the plaintiff's continuous
24 pain, the plaintiff was then seen on April 6, 2005 by the de-
25 fendant, Dr. R. Cox, who examined the plaintiff, and continued
26 the meds "Neurontin", and also placed the plaintiff on the In-
27 stitution's Disability Placement Program (CDC form 1845) stat-

1 ing; "Mobility Impaired" with no further treatment, and/or
2 physical therapy as well. (see Exhibit-B)

3 9. On December 21, 2005 the plaintiff was transferred from
4 High Desert State Prison to the California Training Facility
5 (CTF) at Soledad (see Exhibit-C) which during the course of a
6 (9) hours bus ride from High Desert to CTF prison the plaintiff
7 experienced additional discomforts in the lower back area with
8 burning sensations between the plaintiff's thighs (right test-
9 icle) causing excruciating pain where the plaintiff's right leg
10 and right foot became numb.

11 10. And, again after the plaintiff submitted numerous med-
12 ical forms (CDC 7362) explaining the plaintiff's difficulties
13 walking, standing, and sitting, as (33) days had elapsed before
14 the plaintiff was interviewed and examined on January 23, 2006
15 by the defendant, Dr. T. Friederichs where said defendant ques-
16 tioned the plaintiff about the "MRI" done at High Desert State
17 Prison in the month of October 2002 where the defendant, Dr. T.
18 Friederichs determined and ordered another "MRI" which was done
19 on March 10, 2006. (see Exhibit-D)

20 11. It should be noted that the defendant, Dr. T. Fried-
21 erichs on the January 23th date also prescribed additional med-
22 ications as follows; Mortin, Tylenol, Parafon Forte, and Neu-
23 rentin along with a medical pamphlet explaining stretching ex-
24 ercises, also see Exhibit-D.

25 12. Nonetheless, on May 15, 2006 (see Exhibit-E) the de-
26 fendant, Dr. Cornell Clark interviewed and examined the plain-
27 tiff then performed another "MRI" which findings contradicts

1 the prior "MRI" ordered by the defendant, Dr. Friederichs on
2 March 10, 2006 specifically stating; "No spondylolisthesis or
3 fracture."

4 13. Plaintiff for the next (5) months and (27) days con-
5 tinued to take prescribed meds which in fact had to be renewed
6 by a physician every (90) days, and on November 3, 2006 the de-
7 fendant, C. Sinnaco, MD requested surgery - Posterior Lumbar
8 Laminectomy. (see Exhibit-F)

9 14. On November 27, 2006 the plaintiff was escorted to Re-
10 ceiving & Release and placed into a 2'x2' holding cage for ap-
11 proximately 90 minutes on the order of the defendant, Lieuten-
12 ant R.A. Perez (CDC R 114-D) pending an investigation (see Ex-
13 hibit-G) where the plaintiff's symptoms flared to the point of
14 numbness and swelling to the right leg and foot causing excru-
15 ciating pain as the plaintiff complained on numerous occasions
16 to the defendant, R&R Sergeant, John Doe #2 where he was made
17 aware of the plaintiff's medical conditions.

18 15. Although, that same date of November 27th the plain-
19 tiff was adversely transferred to the California Men's Colony
20 at San Luis Obispo's D.D.U. Annex Cell Unit. (see Exhibit-H)

21 16. It should be noted the plaintiff was seen on November
22 27, 2006 at (CMC) by Michael Viggianelli, MD who interviewed and
23 examined the plaintiff (see Exhibit-I)

24 17. On November 28, 2006 the defendant, J. Chudy, MD -
25 Chief Medical Officer at (CTF) Soledad approved plaintiff's
26 surgery that was requested. (see Exhibit-J)

27 18. The plaintiff on November 29, 2006 asked to see a

1 III. Defendants (continued)

2 O. S. Stack - Chief Psychiatrist - California Men's
3 Colony, P.O. Box 8101, San Luis Obispo, CA 93109-8101.

4 P. G. Brownlee - Lieutenant - California Men's Colony, P.
5 O. Box 8101, San Luis Obispo, CA 93109-8101.

6 Q. M. Mee - Asst. C& PR& Recorder - California Men's
7 Colony, San Luis Obispo, CA 93109-8101.

8 R. Donald A. Ramberg, MD - Medical Board of California,
9 1426 Howe Avenue, Sacramento, CA 95825-3236.

10 S. D. Engler - CC II Specialist - California Men's Colony,
11 P.O. Box 8101, San Luis Obispo, CA 93109-8101.

12 T. M. Vela - CC II Specialist - California Men's Colony,
13 P.O. Box 8101, San Luis Obispo, CA 93109-8101.

14 U. K. Sampson - CC II Counselor - California Correctional
15 Institution, P.O. Box 107, Tehachapi, CA 93581.

16 V. Robert Meyers, MD - medical doctor - California Men's
17 Colony, P.O. Box 8101, San Luis Obispo, CA 93109-8101.

18 W. N. Grannis - Chief Inmate Appeals - P.O. Box 942883,
19 Sacramento, CA 94283-0001.

20 X. D.L. England - Correctional Officer - California Men's
21 Colony, P.O. Box 8101, San Luis Obispo, CA 93109-8101.

22 Y. B. Dieball - Correctional Sergeant - California Men's
23 Colony, P.O. Box 8101, San Luis Obispo, CA 93109-8101.

24 Z. D. Carey - Associate Warden, Program Services - Cali-
25 formia Men's Colony, P.O. Box 8101, San Luis Obispo, CA 93109-
26 8101.

27 AA. John Marshall - Warden - California Men's Colony, P.O.

(ii)

1 Psych - Technician, that evening the plaintiff saw said techni-
2 cian, who asked the plaintiff; "Do you feel like killing your-
3 self or others?" The plaintiff responded with; "I don't know
4 what the hell I'll do", at that point the conversation was
5 terminated, and that same evening the plaintiff was transferred
6 from "D.D.U. Annex Cell Unit" to the "Psychiatric Ward" at
7 (CMC) East.

8 19. The plaintiff was then placed into a one-man cell
9 built only for a top bunk (it should be noted Dr. Michael Vig-
10 gianelli had ordered a lower bunk, see Exhibit-I where the
11 plaintiff stayed (72) hours without any clothes-no shoes, socks
12 Tee-shirt, boxers shorts, nor a mattress to even sleep on only
13 a steel metal sheet, as the plaintiff developed the following
14 symptoms; strange feelings, fatigue, anxiety, troubled desire,
15 confusional state, animosity, and hostility, which all of the
16 foregoing symptoms arising from the adverse transfer and place-
17 ment in Administrative Segregation.

18 20. Nonetheless, after the (72) hours of isolation the
19 plaintiff appeared before the Institution's "Psych Committee",
20 whom deemed the plaintiff should be returned to Ad. Seg..

21 21. The plaintiff was returned to Ad. Seg., but was placed
22 on (10) days observation where every hour on the hour the plain-
23 tiff would have to show a Correctional Officer some type of
24 physical movement.

25 22. However, within that (10) days period the plaintiff
26 was moved on (4) separate occasions to different cells.

27 23. It should be noted, the plaintiff had informed the de-

1 defendants, Correctional Sergeant, John Doe #3, and Correctional
2 Officers, John Doe #4 and #5 that the plaintiff was a Muslim by
3 faith, and requested "Administrative Segregation Property" (see
4 Exhibit-K) and "Special Religious Diet" (see Exhibit-L) which
5 the plaintiff retains a CDC (SRD) card issued at the Correc-
6 tional Training Facility - Soledad where when the plaintiff
7 mentioned those requests - from that point in time until the
8 plaintiff was released from Ad. Seg., the plaintiff experienced
9 defamatory comments, and discriminatory acts behind the plain-
10 tiff's religion, and special diet - remarks of; When the din-
11 ner meal was served - the plaintiff states; "I have a 'special
12 religious diet' card", the defendant, Correctional Officer,
13 John Doe #4 came with; "Well...that's no good in here...this is
14 Ad. Seg....you'll eat what we give you". The defendant, Correc-
15 tional Officer, John Doe #5 then said; "So...you muslims don't
16 want to eat our food...well, that's to bad...because, the only
17 thing you'll get is what my partner just told you...and if you
18 don't like that...to bad". The plaintiff responded; "Can I see
19 a sergeant?" Approximately, one hour later the defendant, Cor-
20 rectional Officer, John Doe #3 stated; "What's the problem?"
21 The plaintiff responded; "I have a 'special religious diet'
22 card". The defendant, John Doe #3 responded; "I can't do any-
23 thing about it right now...but, I'll look into it". It should
24 be noted the plaintiff never received a reply from the defend-
25 ant, John Doe #3, nor any other Correctional Officer. Acts of;
26 spitting in the plaintiff's dinner meal tray, and when the
27 plaintiff confronted the defendant, Correctional Officer, John



1 Doe #4 remarked; "Yeah...sure I did".

2 24. The plaintiff's symptoms had progressed, progressed to
3 the extent where the plaintiff entire back was in excruciating
4 pain from sleeping on a sheet of metal for (72) hours, and con-
5 tinuous movement every hour on the hour causing the plaintiff's
6 right testicle to swell twice the normal size inflamed to the
7 touch.

8 25. However, when the plaintiff was adversely transferred
9 on November 27, 2006 from (CTF-Central) the defendants, D.
10 Carey - CDA(A) & Chairperson, T. Cook - Facility Captain, S.
11 Stack - Chief Psychiatrist, G. Brownlee - Lieutenant, and M.
12 Mee - Asst. C & PR & Recorder all the above defendants knew of
13 the plaintiff's involvement in the cell door closure device by
14 a CDC 128 B (see Exhibit-M) dated November 30, 2006 authored by
15 CC II, D.J. Carnazzo which the plaintiff did not appear before
16 the above named defendants until December 7, 2006.

17 26. Where it should be noted that the plaintiff stayed an
18 additional (13) days in Ad. Seg. although (CMC) administrators
19 knew the plaintiff's had no active role in the investigation
20 before the plaintiff was transferred to Sierra Vista Regional
21 Medical Center on December 13, 2006 for the already approved
22 surgery (see Exhibit-N)

23 27. The plaintiff's Chief Complaints when he entered the
24 hospital were a right disc bulge, osteophytes, and swelling of
25 the right testicle. (see Exhibit-O)

26 28. Nevertheless, on the date of admission - December 13,
27 2006 the defendant, Donald A. Ramberg, MD gave a brief summary

1 of plaintiff's chief complaints (see Exhibit-P) and also with
2 the plaintiff during a physical examination on October 31, 2006
3 (see Exhibit-Q) had a discussion with the defendant, Dr.
4 Ramberg about the procedure used for said surgery, which was
5 fully explained from the "MRI" done on May 15, 2006 see Ex-
6 hibit-E, Impression: where the defendant, Dr. Ramberg would en-
7 ter the right side of the plaintiff's spinal cord during sur-
8 gery.

9 29. However, that procedure was not followed as discussed
10 above, the procedure used was described in (see Exhibit-R) de-
11 scription of procedure.

12 30. The plaintiff on December 15, 2006 was discharged from
13 Sierra Vista Medical Center, with meds prescribed by the de-
14 fendant, Dr. Ramberg - meds of Gabapentin, Lipitor, and Tylenol
15 which order was faxed to (CMC)(see Exhibit-S).

16 31. It should be noted that the plaintiff was transferred
17 to (CMC - Hospital) and examined upon admission - revealing
18 blisters - type lesions on the plaintiff's tongue, which some
19 of them were opened, and about the size of 2 to 3 mm.. (see Ex-
20 hibit-T) Where examining physician, D.M. Perry, MD commented to
21 the plaintiff during said examination; "Why...did they operate
22 on you?" the plaintiff responded; "Huh...what do you mean?" D.
23 M. Perry, MD came with; "I would have not operated on you with
24 those lesions...and being asthmatic, with bronchospasm...no I
25 would have waited at least until the lesions healed".

26 32. Nonetheless, it should be noted the defendant, Dr.
27 Ramberg had ordered a (30) day follow-up which never occurred



1 (see Exhibit-U).

2 33. However, since the plaintiff's return from surgery -
3 plaintiff's pain meds were changed in a manner of days from
4 Gabapentin, to Darvocet, then Vicodin causing the plaintiff's
5 left leg and left thigh with continuous sharp pains. (see Ex-
6 hibit-V)

7 34. The plaintiff did however file a "602" grievance ad-
8 dressing the above mentioned symptoms which was partially
9 granted (see Exhibit-W) which the plaintiff requested a walking
10 cane, double mattress, and/or a egg crate mattress, as none of
11 these accommodations were met - where only the defendant, K.
12 Sampson - CC II said the plaintiff received said accommodations
13 mis-leading the defendant, Robert Meyers where the plaintiff
14 must stress the fact that the defendant, K. Sampson is employed
15 at the California Correctional Institution - Tehachapi, and not
16 at the California Men's Colony where the defendant, Robert
17 Meyers, is employed where the "602" grievance was filed.

18 35. On January 21, 2007 the plaintiff filed another "602"
19 grievance for the lost of legal paperwork, and legal notes (see
20 Exhibit-X) in reference to a incident which occurred in Ad. Seg.
21 where the plaintiff wrote a "602" grievance concerning defama-
22 tory comments, and discriminatory acts which legal paperwork,
23 and legal notes were a copy of said "602", and Correctional
24 Offices names, times, dates, and places.

25 36. On February 20, 2007 the plaintiff unfortunately was
26 transferred again to the California Correctional Institution,
27 Unit #1 - Tehachapi, California.

1 37. On March 20, 2007 the plaintiff filed his third and
2 last grievance (see Exhibit-Y) issues of; medications where the
3 plaintiff was taken off of all pain meds, and it should be
4 noted with the filing of Exhibit-Y this exhausted all adminis-
5 trative remedies concerning all foregoing allegations of the
6 plaintiff's civil rights violations in this civil action.

7 38. It should also be noted that all symptoms mentioned
8 through out the above claim are contributed to the liability of
9 the company, the defendants - Parke-Davis, the defendant,
10 Anthony Wild, CEO, and John, and/or Jane Doe #6 through #15 for
11 the plaintiff sustaining the rare adverse effects of the drug,
12 "Neurontin", and "Gabapentin" effects of; endocrine system -
13 swollen testicle, respiratory system - bronchospasm, urogenital
14 system - testicle pain, and special senses - lesions, taste
15 loss, and unusual taste.

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1 VI. Injunction Relief

2 The plaintiff is requesting this Honorable Court for an
3 "Injunction Relief", for the following reasons;

4 1) The plaintiff had received an operation on his lower
5 back on December 13, 2006 which was done improperly where the
6 plaintiff had to complain to medical staff at the California
7 Correctional Institution of excruciating pain he was experi-
8 encing from the date of said operation until physician - Yin,
9 MD at (C.C.I.) requested that X-rays be performed which was
10 done on February 23, 2007 at the "Kern Radiology Medical Group,
11 Inc." by Howard E. Leventhal, MD as he determined there was a
12 first degree spondylolisthesis of L5 on S1 with disc space nar-
13 rowing. The plaintiff was then placed on a regimen of muscle
14 relaxants and pain medications in the form of "Hydrochloro-
15 thiazide" 25 mg. and "Gabapentin" 800 mg. by Dr. Afra at (C.C.
16 I.) where it was further noted that Dr. Afra requested a mag-
17 netic resonance imaging (MRI) and a post-surgical request for
18 services to follow-up with a neurosurgeon depending on (MRI)
19 results (which has not be done - as of the date of November
20 8, 2007) as Dr. Afra also gave his opinion for services to fol-
21 low-up with an Urologist. (see Exhibit-Z)

22 2) On July 10, 2007 the plaintiff had a video telephone
23 conference with a neurosurgeon at U.C. Davis Medical Center,
24 whom explained to the plaintiff that he needed another back
25 surgery to correct the first surgery that was performed on
26 December 13, 2006, because the neurosurgeon noted from the
27 plaintiff's X-rays, and (MRI) a steel rod along with fusing 3



1 disc would correct the plaintiff's problems.

2 3) The plaintiff now feels since the California Department
3 of Corrections has taken responsibility for the plaintiff's
4 medical needs, and has put forward an effort to correct the
5 plaintiff's medical conditions by contracting to an outside
6 physician whom professional ethics were way below the normal
7 standards - has left the plaintiff with mix emotions for a
8 second surgical procedure in the aspect that the surgery
9 needed is of the spinal cord where one small mishap could and
10 would leave the plaintiff paralyze. With this in mind, and the
11 new prognosis confirming the fact of the much needed second
12 surgery. The plaintiff must stop here and convey to this Honor-
13 able Court the fact that the plaintiff is a "Veteran", dis-
14 charged under Honorable conditions with the U.S. Air Force.

15 4) The plaintiff is at the mercy of this Honorable Court,
16 and requesting the court to issue an order that would relieve
17 the California Department of Corrections of it's responsibility
18 of the second surgery, because of the incompetent physician the
19 California Department of Corrections hired to do the first
20 surgery leaving the plaintiff with the fears of going through
21 the same if not a more complicated procedure. The plaintiff is
22 asking to place this responsibility with the Department of
23 Veterans Affairs where the plaintiff will get the so much need-
24 ed adequate medical attention that the California Department of
25 Corrections do not have - which same medical care has deterio-
26 ated from severe overcrowded Institutions with a lack of doctors,
27 medical technicians, and nurses. And, most importantly (CDC)

(11)

1 doctors has used medications with serious adverse effects on
2 the plaintiff far to long which has plague the plaintiff with
3 unnecessary symptoms induced with pain.

4
5 I, Elbert Thomas Martin declare under the penalty of perjury
6 under the laws of the United States of America that the fore-
7 going statements, and allegations are true and correct.

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9 Dated: 11-15-2007

10 /s/ Elbert T. Martin

11 Elbert Thomas Martin (plaintiff)

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EXHIBIT A

JUN-20-2003 08:58

D.C.P. TELEMEDICINE

530 251 5089

P.01/01

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6499

dict 6/20/03
[Signature]

October 5, 2002

RE: MARTIN, Elbert
DOB: 05/07/56
CDC: T-28520
REF.: Dr. M. Roche
High Desert State Prison

MRI OF THE LUMBOSACRAL SPINE

CLINICAL INDICATION: No provided

TECHNIQUE:

Sagittal and axial T1 and T2 weighted images.

FINDINGS:

The conus medullaris ends at the L1 level and appears within normal limits. The paraspinal soft tissues are unremarkable.

The lower thoracic through L4-5 intervertebral discs are of normal height and signal intensity, without evidence of focal disc herniation or protrusion, central canal or foraminal stenosis. Mild bilateral facet arthrosis is present at L4-5.

L5-S1: Moderate loss of disc height and desiccation is present, with moderate posterior osseous ridging, indicating degenerative disc disease. There is moderate circumferential disc bulging, including a posterior disc protrusion, which results in effacement of the epidural fat, with mild mass effect upon the thecal sac. Moderate bilateral facet arthrosis is present, without significant central canal stenosis. Moderate bilateral foraminal stenosis results.

IMPRESSION:

1. Moderate L5-S1 degenerative disc disease, with circumferential disc bulging, including a broad based posterior disc protrusion, which results in moderate bilateral foraminal stenosis.

MN:bib
T: 10/12/02

Michael Nussdorfer, M.D.

EXHIBIT B

INMATE NAME: MARTIN FIBERT	CDC NUMBER: T28520	INSTITUTION: HILSP	HOUSING ASSIGNMENT: A1-1144	DATE FORM INITIATED: 4-6-09
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Sections A - B to be completed by licensed medical staff.

SECTION B: DISABILITY BEING EVALUATED

- ☐ Blind/Vision Impaired ☐ Speech Impaired
☐ Deaf/Hearing Impaired ☒ Mobility Impaired

Sections C - G to be completed by a physician only.

SECTION D: PERMANENT DISABILITIES *NOT* IMPACTING PLACEMENT

1. ☐ NO CORRESPONDING CATEGORY
2. ☐ NO CORRESPONDING CATEGORY
3. ☐ MOBILITY IMPAIRMENT (Lower Extremities) - DNM
Walks 100 yards without pause with or without assistive devices.
☐ No Housing Restrictions ☐ See HOUSING RESTRICTIONS
in Section E
☐ Requires relatively level terrain and no obstructions in path of travel.
Do not place at: CCI, CMC-E, CRC, CTF-C, FSP, SCC I or II,
SOL, or SQ. (CDC 128-C: _____)
4. ☐ HEARING IMPAIRMENT - DNH
With residual hearing at a functional level with hearing aid(s).
5. ☐ NO CORRESPONDING CATEGORY
6. ☐ SPEECH IMPAIRMENT - DNS
Does not communicate effectively speaking, but does when writing.

SECTION E: ADDITIONAL MEDICAL INFORMATION

CSR ALERT:

- ☐ Requires relatively level terrain and no obstructions in path of travel
☐ Complex medical needs affecting placement ☐ CDC 128-C

HEALTH CARE APPLIANCE / IDENTIFICATION VEST:

- ☐ Cane ☐ Crutch ☐ Walker ☐ Leg/Arm prosthesis ☐ Vest
☐ Other: _____ ☐ CDC 128-C(s) dated: _____

ASSISTANCE NEEDED WITH ACTIVITIES OF DAILY LIVING:

- ☐ Feeding or Eating ☐ Bathing ☐ Grooming ☐ W/C transferring
☐ Toileting ☐ Other: ☐ CDC 128-C(s) dated: _____

OTHER DPP DESIGNATIONS:

- ☐ NONE _____
CODE DATED CODE DATED

HOUSING RESTRICTIONS:

- HOUSING RESTRICTIONS:** ☐ Lower bunk ☐ No stairs ☐ No triple bunk. CDC 128-C(s) dated: _____

SECTION F: EXCLUSIONS

- ☒ **VERIFICATION OF CLAIMED DISABILITY NOT CONFIRMED:** My physical examination or other objective data DOES NOT SUPPORT *claimed* disability.
(Explain in Comments Section and CDC 128-C dated _____).
- ☐ **REMOVAL FROM A DPP CODE:** Removal from previous DPP code: _____. (Explain in Comments Section and CDC 128-C dated: _____.)
- ☐ **REMOVAL FROM ENTIRE PROGRAM:** Removal from DPP code(s): _____. (Explain in Comments Section and CDC 128-C dated: _____.)

SECTION G: EFFECTIVE COMMUNICATION FACTORS

- ☐ Uses Sign Language Interpreter (SLI)
 ☐ Reads Braille
 ☐ Communicates with written notes
 ☐ Requires large print or magnifier
☐ Reads lips
 ☐ NO "EFFECTIVE COMMUNICATION" ISSUES OBSERVED OR DOCUMENTED IN THE UNIT HEALTH RECORD

PHYSICIAN'S COMMENTS: *(Focus on affected systems and functional limitations. No specific diagnosis or other confidential medical information.)*

PHYSICIAN'S NAME (Print)

PHYSICIAN'S SIGNATURE _____

DATE SIGNED _____

HEALTH CARE MANAGER'S / DESIGNEE'S NAME (Print)

HEALTH CARE MANAGER'S / DESIGNEE'S SIGNATURE _____

DATE SIGNED _____

NOTE: After review by the Health Care Manager or Chief Physician & Surgeon, health care staff shall retain green copy for the UHR, send the inmate copy via institutional mail and route the original and remaining copies to the C&PR/RC CC-III for tracking and further distribution according to the instructions below.

EXHIBIT C

DEPARTMENT OF CORRECTIONS
NOTICE OF CLASSIFICATION HEARING**XW-114L**ROUTING INSTRUCTIONS
ORIGINAL: Classification Committee
COPY: Inmate

INMATE NAME	MARTIN	NUMBER	T 520	DATE	12/21/05
-------------	--------	--------	-------	------	----------

YOU WILL APPEAR AT THE NEXT AVAILABLE CLASSIFICATION COMMITTEE.

FOR CONSIDERATION OF A MAJOR PROGRAM CHANGE AS FOLLOWS:

- | | | |
|---|--|---|
| <input type="checkbox"/> TRANSFER | <input type="checkbox"/> INCREASE IN CUSTODY | <input type="checkbox"/> ASSIGNMENT TO SECURITY HOUSING |
| <input type="checkbox"/> REMOVAL FROM PROGRAM | <input type="checkbox"/> OTHER | |

REASONS:

Unit Classification Committee

STAFF NAME	R. Rodriguez	TITLE	CCI	INSTITUTION	CTF-CENTRAL FACILITY
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CDC-128-B1 (Automated)

EXHIBIT D

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

HEALTH CARE SERVICES PHYSICIAN REQUEST FOR SERVICES

(To be completed by requesting Physician and forwarded to Utilization Management Unit)

C-220U

PATIENT NAME <u>Martin, Elbert</u>	CDC NUMBER <u>T28520</u>	INSTITUTION <u>CTF</u>
DATE OF BIRTH <u>5-7-56</u>	EPRD DATE <u>3/2013</u>	GENDER <u>M</u>
PRINCIPLE DIAGNOSIS <u>Lumbar Disc Disease</u>	ICD-9 CODE	CPT CODE(S)
REQUESTED SERVICE(S) <u>MRI Lumbar Spine</u>	# OF DAYS RECOMMENDED	
Please circle all that apply: <u>Diagnostic Procedure/Consultation</u> <u>Outpatient/Inpatient</u> <u>Initial/Follow-up</u>		
Requested Treatment/Service is: <u>EMERGENT</u> <u>URGENT</u> <u>ROUTINE</u>		
For the purpose of retrospective review, if emergent or urgent, please justify:		
Proposed Provider: <u>CTF Mobile Unit</u>	Anticipated Length of Stay: <u>N/A</u>	
Expected disposition (i.e.: outpatient follow-up, return to institution, transfer): <u>N/A</u>		
Medical Necessity (briefly describe the clinical situation; the history of the illness, treatments used, pertinent lab and imaging studies, or questions for the consultant): <u>Back pain since 1992, steadily worsening</u>		
Estimated time for service delivery, recovery, rehabilitation and follow-up: <u>6 mo</u>		
Summary of preliminary or diagnostic work up, conservative treatment provided (if applicable, please provide TB code, CD4, viral load, albumin, total protein and dates within last 3 months): <u>Motrin Tylenol Paracetamol, Xlearonin</u>		
<u>MRI (2002) - ? spinal stenosis</u>		
Comments (diagrams, risk factors, prognosis, alternative management, etc.):		

REQUESTING PHYSICIAN PRINTED NAME <u>T. FRIEDERICHS MD</u>	APPROVED / AUTHORIZED / DENIED / DEFERRED BY	DATE
REQUESTING PHYSICIAN SIGNATURE <u>T. Friederichs</u>	DATE <u>1-23-06</u>	Utilization management tracking #:
DATE OF CONSULTATION	PRINTED NAME OF CONSULTANT	

FINDINGS: Found Filed in chart under consultations w/ scheduleRECOMMENDATIONS: MRI Completed

FOLLOW-UP OR FURTHER EVALUATIONS REQUESTED:

CONSULTANT SIGNATURE <u>[Signature]</u>	DATE <u>5/15/06</u>	CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH
ETA RN SIGNATURE <u>S. Morrow</u>	DATE <u>5/15/06</u>	
PCP SIGNATURE	DATE	

Attach Progress Note page for additional information.

THIS FORM MUST BE RETURNED WITH THE PATIENT!!!

DISTRIBUTION:

ORIGINAL - FILE IN UHR
 GREEN - TO UHR PENDING ORIGINAL
 CANARY - CONSULTANT
 PINK - UM
 GOLD - SPECIALTY SCHEDULER

X-RAY REPORT

**DEPARTMENT OF CORRECTIONS
CORRECTIONAL TRAINING FACILITY**

NAME: MARTIN, ELBERT **CDC #:** T-28520 **CELL:** C 220 L **DOB:** 5/7/56 **DATE:** 3/10/06

EXAM REQUESTED:
LUMBAR SPINE

CLINICAL DATA:
Chronic lbp 1992

REFERRING PHYSICIAN:
T. FRIEDERICHS, M.D.

RADIOGRAPHIC REPORT:

LUMBAR SPINE: AP, lateral, both obliques and lateral L5 spot films of the lumbar spine are obtained on 3/10/06.

Grade one L5 spondylolisthesis with markedly diminished L5-S1 disc height endplate sclerosis. Probable Pars Defects of the L5. No other alignment abnormality. Vertebral body height and disc space is otherwise maintained.

IMPRESSION:

L5-S1 ADVANCED SPONDYLOSIS, GRADE ONE L5-S1 SPONDYLOLISTHESIS, PROBABLE PARS DEFECTS.

4/6/06
DATE READ

R. VILLALOBOS, M.D.
RADIOLOGIST

RV/cjw
4/27/06

EXHIBIT E

SALINAS VALLEY RADIOLOGISTS, P.C.

A MEDICAL GROUP
 559 Abbott Street • Salinas, California 93901
 Telephone (831) 775-5200

C-220

JAMES A. KOWALSKI, M.D.
 DONALD A. CATALANO, M.D.
 GILES A. DUESDIEKER, M.D.
 MICHAEL E. BASSE, M.D.
 DAVID A. STAUNTON, M.D.
 GARY E. FALKOFF, M.D.
 RICHARD A. VILLALOBOS, M.D.

CHRIS GLENN, M.D.
 B. MISA HOSOHAMA, M.D.
 Y-LAN HO, M.D.
 BRUCE LIN, M.D.
 ROY MARTINEZ, M.D.
 F. SCOTT PERELES, M.D.

PATIENT NAME
ELBERT-T28520 MARTIN

ACCOUNT NO
9383375

RADIOLOGY NUMBER
9383375

AT THE REQUEST OF
CORNELL CLARK MD
PO BOX 686
SOLEDAD, CA 93960

DATE OF BIRTH
05/07/1956

AGE/SEX
50/M

DATE OF SERVICE
05/15/2006

The study was performed by an outside facility and the film submitted to Salinas Valley Radiologists for interpretation.

(MRI LUMBAR SPINE WITHOUT CONTRAST

COMPARISON: There are no prior studies available for comparison.

PROCEDURE: Sagittal T1 and T2 sequences of the lumbar spine were obtained. Oblique axial proton density and T2 sequences from L3-4 to L5-S1 were obtained in a 1.5T MRI unit.

FINDINGS: No spondylolisthesis or fracture. Moderate-to-severe disk height loss at L5-S1 with a large circumferential disk bulge with marginal osteophyte. Early disk desiccation is noted at L1-2. Normal marrow signal. Normal signal and morphology of the conus located at L1. No intrathecal or paraspinal mass.

L5-S1: Large circumferential disk bulge which touches the anterior thecal sac. The AP diameter of the thecal sac measures 9 mm in the midline. There is moderate bilateral neural foraminal narrowing and the disk appears to touch the exiting nerve roots on the right.

L4-5: Normal disk. No stenosis.

L3-4: Normal disk. No stenosis.

IMPRESSION:

1. Large circumferential disk bulge at L5-S1 causing moderate bilateral neural foraminal stenosis and appears to be touching the exiting nerve root on the right. There is relative attenuation of the thecal sac at this level as well.
2. Normal conus.

Thank you for referring your patient to us,

B. Misa Hosohama
 B: Misa Hosohama, MD
 BMH/pa

EXHIBIT F

PHYSICIAN REQUEST FOR SERVICES

(to be completed by requesting Physician and forwarded to Utilization Management Unit)

PATIENT NAME Martin, Elbert	CDC NUMBER 128520	INSTITUTION CTF
DATE OF BIRTH 5-7-54	EPRD DATE 2013	GENDER M
PRINCIPLE DIAGNOSIS Lumbar radiculitis L5-S1	ICD-9 CODE 15.51	CPT CODE(S)
REQUESTED SERVICE(S) Lumbar laminectomy L5-S1	# OF DAYS RECOMMENDED	

Please circle all that apply: Diagnostic Procedure/Consultation Outpatient/Inpatient Initial/Follow-up

Requested Treatment/Service is: EMERGENT URGENT **ROUTINE**

For the purpose of retrospective review, if emergent or urgent, please justify:

Proposed Provider: **Dr. Kumbur** Anticipated Length of Stay:

Expected disposition (i.e.: outpatient follow-up, return to institution, transfer):

Medical Necessity (briefly describe the clinical situation; the history of the illness, treatments used, pertinent lab and imaging studies, or questions for the consultant):

Requested by provider

Estimated time for service delivery, recovery, rehabilitation and follow-up:

Summary of preliminary or diagnostic work up, conservative treatment provided (if applicable, please provide TB code, CD4, viral load, albumin, total protein and dates within last 3 months):

Comments (diagrams, risk factors, prognosis, alternative management, etc.):

REQUESTING PHYSICIAN PRINTED NAME C. Sinnard	APPROVED / AUTHORIZED / DENIED / DEFERRED BY one	DATE 11/3/06
REQUESTING PHYSICIAN SIGNATURE [Signature]	DATE 11/3/06	Utilization management tracking #:
DATE OF CONSULTATION	PRINTED NAME OF CONSULTANT	

FINDINGS:

RECOMMENDATIONS:

FOLLOW-UP OR FURTHER EVALUATIONS REQUESTED:

CONSULTANT SIGNATURE	DATE	CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH
ETA RN SIGNATURE	DATE	
PCP SIGNATURE	DATE	

Attach Progress Note page for additional information.

THIS FORM MUST BE RETURNED WITH THE PATIENT!!!

DISTRIBUTION:

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 PINK - UM
 GOLD - SPECIALTY SCHEDULER

EXHIBIT G

ADMINISTRATIVE SEGREGATION UNIT PLACEMENT NOTICE

CDCR 114-D (Rev 10/98)

DISTRIBUTION:
 WHITE-CENTRAL FILE
 BLUE-INMATE (2ND COPY)
 GREEN- ASU
 CANARY-WARDEN
 PINK-HEALTH CARE MGR
 GOLDENROD-INMATE (1ST COPY)

12.9 TABE

INMATE'S NAME
 Martin

CDC NUMBER
 T-28520

HOUSING
 C-220-U

REASON(S) FOR PLACEMENT (PART A)

- ☒ PRESENTS AN IMMEDIATE THREAT TO THE SAFETY OF SELF OR OTHER
☒ JEOPARDIZED INTEGRITY OF AN INVESTIGATION OF ALLEGED SERIOUS MISCONDUCT OR CRIMINAL ACTIVITY
☒ ENDANGERS INSTITUTION SECURITY ☐ UPON RELEASE FROM SEGREGATION, NO BED AVAILABLE IN GENERAL POPULATION

DESCRIPTION OF CIRCUMSTANCES WHICH SUPPORT THE REASON(S) FOR PLACEMENT:

On 11/27/06 you are being placed on Administrative Segregation, pending an investigation for suspicion of manipulating the locking bar mechanism of the cell door. Based on the aforementioned, your continued presence in the CTF Central general population presents an immediate threat to the safety of others, jeopardizes the integrity of the investigation, and endangers the safety and security of the institution. You will remain on Administration Segregation status pending completion of the investigation by Unit III Custody Staff and by review by the Institutional Classification Committee for appropriate housing/program needs. As a result of this Administrative Segregation placement, your credit earning, custody level, privilege group, and visiting status will be subject to change. You are not a participant in the Mental Health Delivery System at any level of care. Your TABE/Reading score is unregistered. Your placement was authorization by Associate Warden, Central Facility, C. Noll.

<input type="checkbox"/> CONTINUED ON ATTACHED PAGE (CHECK IF ADDITIONAL)		<input type="checkbox"/> IF CONFIDENTIAL INFORMATION USED, DATE OF DISCLOSURE:	
DATE OF ASU PLACEMENT	SEGREGATION AUTHORITY'S PRINT NAME	SIGNATURE	TITLE
11/27/06	R.A. Perez		Lieutenant
DATE NOTICE SERVED	TIME SERVED	PRINTED NAME OF STAFF SERVING ASU PLACEMENT	SIGNATURE
11-27-06	1650	R. Perez	
INMATE REFUSED TO SIGN		INMATE SIGNATURE	CDC NUMBER
			T-28520

ADMINISTRATIVE REVIEW (PART B)

The following to be completed during the initial administrative review by Captain or higher by the first working day following placement

STAFF ASSISTANT (SA)

INVESTIGATIVE EMPLOYEE (IE)

STAFF ASSISTANT'S NAME	TITLE	INVESTIGATIVE EMPLOYEE'S NAME	TITLE
IS THIS INMATE:			
LITERATE??	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	EVIDENCE COLLECTION BY IE UNNECESSARY	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
FLUENT IN ENGLISH??	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	DECLINED ANY INVESTIGATIVE EMPLOYMENT	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
ABLE TO COMPREHEND ISSUES??	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	ASU PLACEMENT IS FOR DISCIPLINARY REASONS	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
FREE OF MENTAL HEALTH SERVICES DELIVERY SYSTEM NEEDS??	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	DECLINED 1ST INVESTIGATIVE EMPLOYEE ASSIGNED	<input type="checkbox"/> YES <input type="checkbox"/> NO
DECLINING FIRST STAFF ASSISTANT ASSIGNED??	<input type="checkbox"/> YES		

Any "NO" requires assignment

Any "NO" requires assignment

☒ NOT ASSIGNED☒ NOT ASSIGNED

INMATE WAIVERS

<input type="checkbox"/> INMATE WAIVES OR DECLINES INTERVIEW WITH ADMINISTRATIVE REVIEWER	<input type="checkbox"/> INMATE WAIVES RIGHT TO 72 HOURS PREPARATION TIME
<input type="checkbox"/> NO WITNESSES REQUESTED BY INMATE	INMATE SIGNATURE
	DATE

WITNESSES REQUESTED FOR HEARING

WITNESS NAME	TITLE/CDC NUMBER	WITNESS NAME	TITLE/CDC NUMBER
WITNESS NAME	TITLE/CDC NUMBER	WITNESS NAME	TITLE/CDC NUMBER

DECISION: ☐ RELEASE TO UNIT/FACILITY☒ RETAIN PENDING ICC REVIEW☒ DOUBLE CELL☒ SINGLE CELL PENDING ICC

REASON FOR DECISION: Retain AD-SEC to SS presence in CTF would represent a threat to institutional security

ADMINISTRATIVE REVIEWER'S PRINTED NAME	TITLE	DATE REVIEW	TIME	ADMINISTRATIVE REVIEWER'S SIGNATURE
TL Cook	FIC	11-28-06	11:00h	TL Cook FR
CORRECTIONAL ADMINISTRATOR'S PRINTED NAME (if necessary)		CORRECTIONAL ADMINISTRATOR'S CO-SIGNATURE (if necessary)		DATE OF REVIEW

See Chronological Classification Review document (CDC 128-G) for specific hearing information

EXHIBIT H

California Mens Colony

D.D.U. Annex Cell Inventory SheetDate: 11-28-06MARTIN, ELBERT

Name

T-28520

Number

072

Cell

Inspection of Cell # 2072 in the D.D.U. Annex, reveals that the below listed cell fixtures have been found to be in good condition. Cell supplies, clothing, bedding, etc., as listed below have been issued to the occupant named above.

Clean, untorn mattress.....	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
At least one clean untorn blanket.....	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Properly functioning toilet.....	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Pillow, Clean, Untorn.....	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Lighting Fixture, functional.....	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Clean, disinfected cell.....	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Standard clothing issue...(Initial).....	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Adequate Heating/Ventilation.....	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Radio Outlet...(Working).....	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Properly functioning sink.....	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>

• Explain reason for checking "NO" column •

	SCREEN <input type="checkbox"/> Yes <input type="checkbox"/> No			

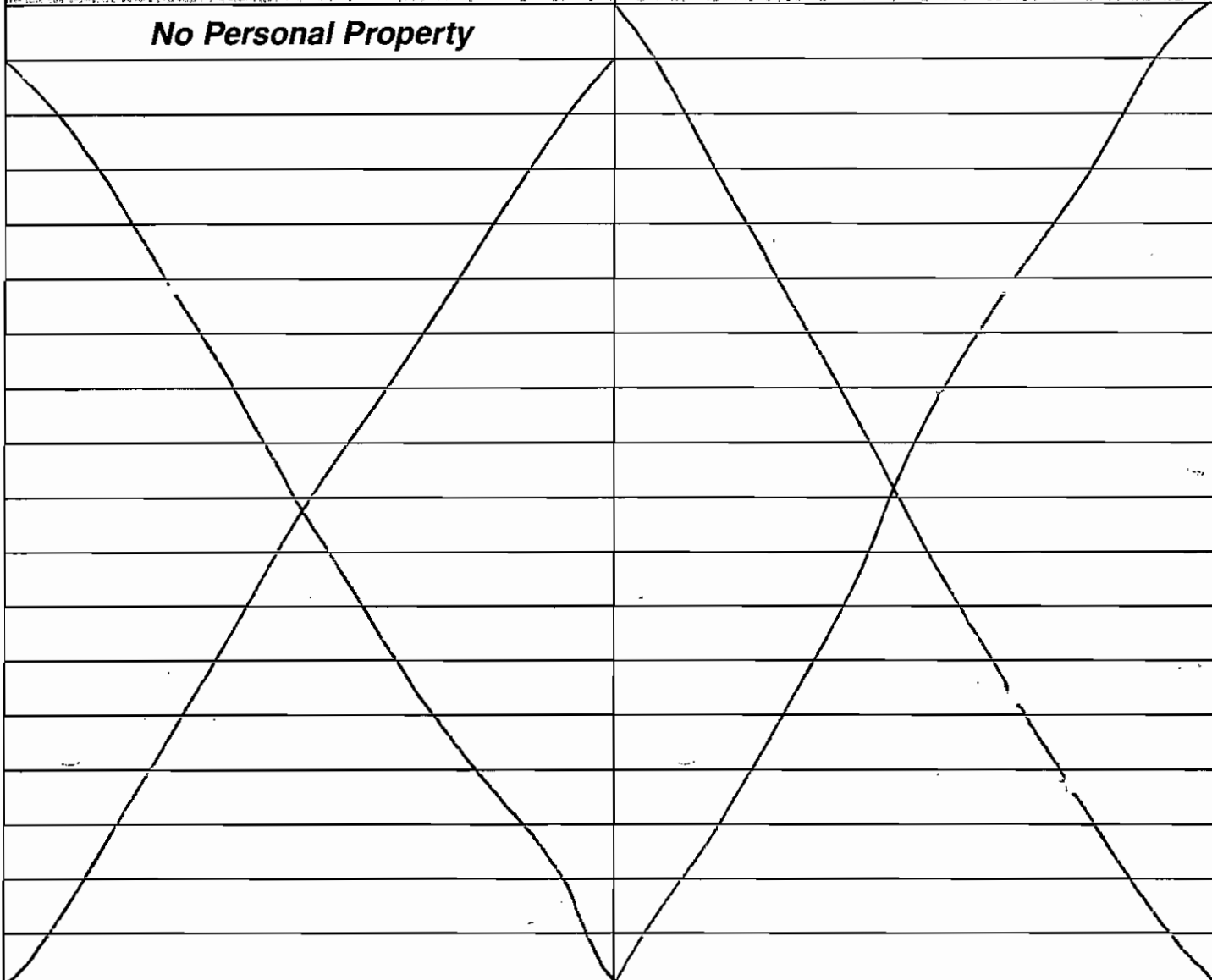
Elbert Martin

Signature of Cell Occupant

[Signature]

Signature of Reporting Officer

California Mens Colony
Administrative Segregation Unit**Property Receipt**

Item	Description
No Personal Property	
	

Inmate's Name (Printed): MARTIN, E. {T-28520}Inmate's Signature: Date Received: 11-28-06Inventory Officer: 

Bin Number: _____


EXHIBIT I

NAME and NUMBER MARTIN ELBERT T28520 4262 CDC-128C

It is required that inmate/patient be assigned a lower bunk and a lower tier for medical reasons.

From: 11/27/2006 through 05/27/2007

cc: Central File
Unit Health Record
Facility Captain B-Quad
CCII B-Quad
Inmate


Michael Viggianelli, MD

CMC-East

DATE: 12/05/2006 ORDERED: 11/27/2006 MLA Lower Bunk - Lower Tier MEDICAL

EXHIBIT 5

DEPARTMENT OF CORRECTIONS

STATE OF CALIFORNIA

REQUEST FOR AUTHORIZATION OF TEMPORARY REMOVAL FROM MEDICAL TREATMENT

NAME MARTIN, ELBERT	DOB 5/7/1956	NUMBER T28520	INSTITUTION CTF SOLEDAD CF CW 220L
------------------------	-----------------	------------------	---------------------------------------

NAME OF HOSPITAL, CLINIC, OFFICE OR OTHER PLACE RECOMMENDED

SIERRA VISTA REGIONAL MEDICAL CENTER, 1010 MURRAY ST., SAN LUIS OBISPO, CA 93406, (805) 546-7600

REASON FOR REQUEST (STATEMENT OF CHIEF MEDICAL OFFICER)

DESCRIPTION OF CONDITION SUGGESTING REMOVAL

CONDITION REQUIRES OUTSIDE MEDICAL APPOINTMENT

DESCRIPTION OF EXAMINATION OR THERAPY RECOMMENDED

SURGERY

NATURE AND IMMEDIACY OF SERVICE: MANDATORY, EMERGENCY, OR ELECTIVE

a) WHY CAN THE PROCEDURE NOT BE DONE INTRAMURALLY

CTF NOT EQUIPPED

(b) IF ELECTIVE, ARE FUNDS EARMARKED FOR THIS PURPOSE AVAILABLE?

ESTIMATED TIME AWAY FROM INSTITUTION (NOT MORE THAN 3 DAYS)

ESTIMATED COST

REMARKS

INMATE HAS AN APPT ON 12/13/2006 AT 0500 WITH DR. RAMBERG. HE WILL NEED TO BE NPO. DROP OFF.

REFERRED BY: DR. SINNACO

CONFIRMED BY: D. HUSSEY

SIGNATURE OF CHIEF MEDICAL OFFICER

J. CHUDY, MD

DATE: 11/28/06

LABORATORY REPORTS

PLACE TOP OF REPORT #3 HERE

PLACE TOP OF REPORT #2 HERE

NAME AND NUMBER MARTIN T28520 HOUSE C-220L CTF-C CDC-128-C

Inmate MARTIN T28520 is scheduled for a medical procedure at SIERRA VISTA REGIONAL MEDICAL CENTER at 0500 on 12/13/2006. Approximate length of hospital admission is 3 to 5 days. A CDC Form # 7252 has been processed. It is requested that the Central Custody Captain or designee arrange for hospital guarding with the California Men's Colony.

ORIG: ~~CCM~~

COPY: Unit CC1

Inmate

UM RN

TCR Coordinator

CMO Secretary

Central Custody Captain

Medical File

Chrono File

for MAHallyne
 JOSEPH CHUDY, M.D.
 Chief Medical Officer (A)
 CTF Soledad

DATE: 11/14/2006

MARTIN T28520

MEDICAL- PSHCHIATRIC- DENTAL

EXHIBIT K

Memorandum

Date: : January 30, 2006

To : ADMINISTRATIVE SEGREGATION INMATES

From : California Men's Colony
San Luis Obispo, CA 93409

Subject : **ADMINISTRATIVE SEGREGATION PROPERTY GUIDELINES**

LAST NAME: MARTIN
CDC#: T-28520
DATE ARRIVED: 11-27-06
FROM CELL: CW-220
TO CELL: ASU-207-L

The following items may be removed from your personal property. You may only request the allotted items listed below. You may only submit one (1) request in a 90-day period. Any discrepancies noted on your property receipt must be addressed to your Quad/Unit property Correctional Officer. If your property has not been removed from your previous Quad/Unit and placed in Receiving and Release (R&R), you must contact your Quad/Unit property officer via a Request for Interview form. The Administrative Segregation Property Officer can not act upon a request until your property has reached CMC-East R&R.

ALLOTTED ITEMS: Check items requested and make any comments on the back of this form.

- ☒ Prescription Glasses (no hard glasses cases)
- ☐ Legal Paperwork (pending cases only)
- ☒ Soft Back Bible *Holy Quran*
- ☐ Soft Back Dictionary
- ☐ (1 pair) Shower Shoes / Slippers
- ☒ (1 Pair) Underwear, Thermal / Long
- ☐ (2) Solid Stick Deodorant (removed from plastic container)
- ☒ (2) Toothpaste (removed from tube into plastic bag)
- ☐ Dental Flossers / Gliders (10 per week)
- ☐ Dentures
- ☐ (1 box) Denture Cleaner
- ☐ (2) Bar Soap
- ☐ (1) Shampoo
- ☐ (1) Palm Brush
- ☒ (1) Lotion (includes baby oil / sun block)
- ☐ (1) Address Book (no staples)
- ☒ (40) Blank Envelopes (legal / letter)
- ☐ (5) Greeting Cards
- ☒ (1) Legal Pad/Tablet (non-spiral)
- ☒ (40) Postage Stamps (U.S. postage only)
- ☒ (15 sheets) Stationery
- ☒ Health Care Appliance (purchased through the Medical Dept. / Dr. Rx.)
- ☐ (1) Wedding Band (not to exceed \$ 100.00, yellow / white metal only, no set stones)
- ☐ (15) Photographs (maximum size 8 x 10)

C. Baker
ASU Lieutenant
California Men's Colony

Received Date / Inmate Signature

EXHIBIT 6

California Department of Corrections
Correctional Training Facility
Special Religious Diet (SRD) Card

MARTIN T28520

NAME DATE CDC#
GW-2200 12/22/06 MSLM

HOUSING DATE RELIGION

Chaplain Hannah W. Cohen
CHAPLAIN HANNAH W. COHEN
CORRECTIONAL TRAINING FACILITY
CARD NUMBER C-117

EXHIBIT M

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS
CDC-128G (Rev 2)

No. T-28520 Name: MARTIN, Elbert Bed: BQ B4-4114
 Custody: MED B Annual: 11/2007 Assignment: ASU
 WG: A1 PG: A Eff: Care Level: GP DDP: DPP: TBA: 32
 WL: S TABE: 12.9 Next BPH: Release Date: 1/5 EPRD 03-10-2013
 Rx: REFER CSR RX TX CMC-W / CCH RELEASE TO CMC-W UNIT I GP

S appeared before ICC this date for a CDC 114D, and Initial Classification Review. S was placed in ASU on 11/27/06 following his arrival from CTF-Central as a Warden to Warden agreement based on S's alleged involvement manipulating a locking bar mechanism of a cell door at CTF-Central. Based on this, S was initially placed in the CTF ASU and subsequently transferred to CMC-E on 11/27/06. Committee notes a CDC 128B dated 11/30/06, authored by CC-II D.J. Carnazzo, which documents that the investigation was concluded on 11/30/06 and it was determined that S was not present in the cell when the cell door closure device had been compromised. The recommendation was for non-adverse release of S to the CMC-E GP and referral to the CSR for appropriate endorsement. S's placement score is 8. S was originally sentenced a determinate term of 15-years. S's current I/O for Robbery 2nd requires a case 1 case review. Review of Probation Officer's Report (POR), page 2, reveals that S committed robberies of three banks from 9/99 through 5/00. S brandished a firearm and demanded money from tellers. The firearm was never used and

Date: 12-07-2006 INSTITUTIONAL CLASSIFICATION COMMITTEE In Person Inst: CMC-E / A-Quad la

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS
CDC-128G (Rev 2/69)

No. T-28520 Name: MARTIN, Elbert Bed: BQ B4-4114

there were no injuries to victims in any of these robberies. Therefore, VIO is not warranted. S has also served a prior federal term for bank robbery in 1994, of which arrest report is not available as well as a prior CDC term of 3-years for Burglary in 1990. Arrest reports are not available as well. S is reviewed and cleared for double cell housing and controlled compatible yard while in ASU. Committee elects to refer this case to the CSR RX TX CMC-W I with an alternate to CCI-I. Committee elects to release S to the CMC-W unit I GP. S is placed in WG/PG A1A with MED-custody upon transfer. CDC 812 is clear. S has no gang affiliation. Confidential file is clear. TB code of 32 per CDC 128-C dated 7/27/06. DDP designation is NCF per CDC 128-C2 dated 8/30/01. There are no DPP concerns. S is not included in the MHSDS. TABE score is 12.9. Initial case factors: DOB: 5/7/56. S is a 50-year old, Black, 2nd term; committed from L.A. County for Robbery 2nd Degree. Total term: 15-years. CLLR: L.A. Rec'd CDC: 8/28/01. Rec'd CMC: 11/27/06 from CTF for ASU housing. FPTTP: N/A. S does not meet criteria for M.D.O. referral per PC 2962. S is ineligible for Camp, CCRC, CCF, R/C, MSF and SAP due to TIM. S has no holds, escapes, arsons or sexual offenses noted. S fully participated in Committee action. S understood the reasons for Committee's decision and agreed with Committee's recommendation. S had no questions or comments for Committee this date. Staff assistance was not requested nor required. S was advised to his right to appeal Committee action via the CDC 602 process. S was

Date: 12-07-2006 INSTITUTIONAL CLASSIFICATION COMMITTEE In Person Inst: CMC-E / A-Quad la

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS
CDC-128G (Rev 2/69)

No. T-28520 Name: MARTIN, Elbert Bed: BQ B4-4114

further advised of his non-contact visiting status while in ASU. Next ICC in 90-days if S is not yet transferred.

COMM. *[Signature]*
 D. Carey
 CDA (A) &
 Chairperson

T. Cook
 Facility Captain

S. Stack
 Chief Psychiatrist
 (A)

G. Brownlee
 Lieutenant

[Signature]
 M. Mee
 Asst. C&PR &
 Recorder

CC: Inmate, Quad & CSR

Date: 12-07-2006 INSTITUTIONAL CLASSIFICATION COMMITTEE In Person Inst: CMC-E / A-Quad la

EXHIBIT ✓

T28520

Donald Ramberg, M.D.
Neurological Surgery
699 CALIFORNIA BLVD., SUITE #B
San Luis Obispo, CA 93401
(805) 543-6710
Fax (805) 543-8298

PRE-OPERATIVE INSTRUCTIONS

PATIENT NAME: Martin, Elbert
MEDICATIONS: _____
ALLERGIES: _____

1. ~~PLEASE CALL 546-7731 TO SCHEDULE YOUR PRE-OPERATIVE APPOINTMENT AT SIERRA VISTA. YOUR APPOINTMENT SHOULD BE AT LEAST TWO-THREE DAYS PRIOR TO SURGERY. (NO EARLIER THAN ONE WEEK PRIOR TO SURGERY).~~
2. DO NOT EAT OR DRINK AFTER MIDNIGHT ON THE NIGHT PRIOR TO SURGERY
3. STOP ASPIRIN OR ANY ASPIRIN CONTAINING PRODUCTS, SEVEN DAYS PRIOR TO SURGERY
4. STOP ALL OTHER MEDICATIONS BY MIDNIGHT ON THE NIGHT PRIOR TO SURGERY, UNLESS OTHERWISE INSTRUCTED
5. ARRIVE FOR ADMISSION TO THE HOSPITAL TWO HOURS BEFORE SCHEDULED SURGERY TIME

DATE OF SURGERY: Wed. 12/13/06
TIME OF SURGERY: 12 NOON
ARRIVAL TIME: 10:00 am
HOSPITAL: Sierra Vista Hospital
ESTIMATED LENGTH OF STAY: approx. 1-2 days
SHOULD YOU HAVE ANY QUESTIONS, PLEASE CONTACT
SUSAN, OFFICE ADMINISTRATOR AT 543-6710.
THANK YOU!

Orders Done

DISCH DT/TIME: BY: DXDA

PATIENT NAME: MARTIN, ELBERT TITLE:
MAILING ADDR: PO BOX 8101 SOCIAL SECURITY: 0000000001
CITY/STATE: SAN LUIS OBISPO CA 93409 0001 PHONE: (805) 547-7900
PHYSICAL ADR: NPP: 2.0 DATE: 12/08/03
CITY/STATE: PHONE: ()
OCCUPATION: LANGUAGE: EN FC: 81

POB: UNKNOWN ADMT PHYS: 7633- RAMBERG DONALD A HSV: 11
DOB: 5/07/1956 ADMT PHYS PHONE: (805) 543-6710 RLG: NP PAR:
AGE: 50 Y ATTEND PHYS: 7633- RAMBERG DONALD A MS: S
SEX: M REF PHY: 7633-RAMBERG DONALD A PHN: 805 543-6710 SMK: N
RACE: 1 FATHER'S DOB: MOTHER'S DOB: PT: 1
REF SRC: FLAG: VAL:N

EMER CONTACT: STATE OF CALIFORNIA CMC REL: WARD OF THE COURT
ADDRESS: PO BOX 8101 PHONE: (805) 547-7900
CITY/STATE: SAN LUIS OBISPO CA 93409
NEAREST RELT: NONE OTHER REL: UNKNOWN
ADDRESS: PHONE: ()
CITY/STATE: RESEARCH ID:

GUARANTOR: STATE OF CALIF, CMC REL: WARD OF THE COURT
ADDRESS 1: PO BOX 8101 PHONE: (805) 547-7900
ADDRESS 2: SOCIAL SECURITY: 0000000001
CTY/STE/ZIP: SAN LUIS OBISPO CA 93409 0001 OCC: AF:
PAYOR NAME 1: DEPT OF CORRECTIONS INS. PLAN ID: AAZ3Q SRV/TYPE: ALLIP
PLAN NAME: CALIFORNIA MENS COLONY (CMC) IPA:
BILL C/O NAME: ATTN JAMIE CORVERA, AA11 AUTH #:
BILL ADDRESS: PO BOX 7021 CERT-SSN-HIC-ID#:
CTY/STE/CNTRY: PASO ROBLES CA 93447 7021 BILL PHONE: (805) 237-3030
BILLING NAME: GP #:
INSURED: MARTIN, ELBERT SEX/REL: M SELF
EMPLOYER: INMATE AT CMC MSP: TRACKING#:
ADDRESS: P O BOX 8101 EMP PHONE: (805) 547-7900
CITY/STATE: SAN LUIS OBISPO CA 93409 ESC: 3
PAYOR NAME 2: INS. PLAN ID:
PLAN NAME:
BILL C/O NAME: CERT-SSN-HIC-ID#:
BILL ADDRESS: AUTH #:
CTY/STE/CNTRY: BILL PHONE: () 000-0000
BILLING NAME: GP #:
INSURED: SEX/REL:
EMPLOYER: TRACKING#:
ADDRESS: EMP PHONE: () 000-0000
CITY/STATE: ESC:

SPAN CODE: PRIOR VISIT:
FROM/TO DATE: PRIOR HOSPITAL:
CONDITION CD CONDITION CD OCCURRENCE CD/DATE OCCURRENCE CD/DATE

11 11/30/06

CHIEF COMPLAINT DESCRIPTION: ADMIT DIAGNOSIS CODE:
LUMBAR STENOSIS
COMMENTS: OBTND FRM OFFICER GOBLE ORDER SMK CESSATION ADV DIR ACK DECLOPTOT
POSTERIOR LUMBAR LAMINECTOMY, BILATERAL L5-S1

EXHIBIT 0

Ex. 4, B, T- A

SALINAS VALLEY RADIOLOGISTS
A MEDICAL GROUP
559 Abbott Street • Salinas, California 93901
Telephone (831) 775-5200

C-220

JAMES A. KOWALSKI, M.D.
DONALD A. CATALANO, M.D.
GILES A. DUESDIEKER, M.D.
MICHAEL E. BASSE, M.D.
DAVID A. STAUNTON, M.D.
GARY E. FALKOFF, M.D.
RICHARD A. VILLALOBOS, M.D.

CHRIS GLENN, M.D.
B. MISA HOSOHAMA, M.D.
Y-LAN HO, M.D.
BRUCE LIN, M.D.
ROY MARTINEZ, M.D.
F. SCOTT PERELES, M.D.

PATIENT NAME
ELBERT-T28520 MARTIN

ACCOUNT NO
9383375

RADIOLOGY NUMBER
9383375

AT THE REQUEST OF
CORNELL CLARK MD
PO BOX 686
SOLEDAD, CA 93960

DATE OF BIRTH
05/07/1956

AGE/SEX
50/M

DATE OF SERVICE
05/15/2006

The study was performed by an outside facility and the film submitted to Salinas Valley Radiologists for interpretation.

MRI LUMBAR SPINE WITHOUT CONTRAST

COMPARISON: There are no prior studies available for comparison.

PROCEDURE: Sagittal T1 and T2 sequences of the lumbar spine were obtained. Oblique axial proton density and T2 sequences from L3-4 to L5-S1 were obtained in a 1.5T MRI unit.

FINDINGS: No spondylolisthesis or fracture. Moderate-to-severe disk height loss at L5-S1 with a large circumferential disk bulge with marginal osteophyte. Early disk desiccation is noted at L1-2. Normal marrow signal. Normal signal and morphology of the conus located at L1. No intrathecal or paraspinal mass.

L5-S1: Large circumferential disk bulge which touches the anterior thecal sac. The AP diameter of the thecal sac measures 9 mm in the midline. There is moderate bilateral neural foraminal narrowing and the disk appears to touch the exiting nerve roots on the right.

L4-5: Normal disk. No stenosis.

L3-4: Normal disk. No stenosis.

IMPRESSION:

1. Large circumferential disk bulge at L5-S1 causing moderate bilateral neural foraminal stenosis and appears to be touching the exiting nerve root on the right. There is relative attenuation of the thecal sac at this level as well.
2. Normal conus.

Thank you for referring your patient to us,

B. Misa Hosohama
B. Misa Hosohama, MD
BMH/pa

EXHIBIT P

SIERRA VISTA REGIONAL
 MEDICAL CENTER
 1010 Murray Ave.
 San Luis Obispo, CA 93405
 805-546-7953
 DOB: 05/07/1956 T28520
 Page 1 of 1

PT: MARTIN, ELBER
 MR#: 000688448 SVM
 PT: 0 RM:
 ADM: 12/13/2006 DIS:
 ACCT: 9680969 AUTH ID: V600
 506959RAMBERG
 HISTORY AND PHYSICAL EXAMINATION

DATE OF ADMISSION: 12/13/2006

CHIEF COMPLAINT: The patient is a 50-year-old male inmate at present who has had back and bilateral leg pain since 1992 starting out with an injury and initially just back and right leg pain which originally was a work-related injury. He had physical therapy for a year since then in prison system is doing previous medications. For the most part currently is on gabapentin. He has back pain and mid right and left leg pain coming in on a sitting position, walking increases the pain.

MRI scans that were done in My 2006 showing a large circumferential disc bulge, L5-S1, causing bilateral neural foraminal stenosis.

PAST MEDICAL HISTORY: Hypertension. History of asthma. No previous surgical treatment.

PHYSICAL EXAMINATION:

GENERAL: The patient is alert, oriented and in no acute distress.

HEENT: Negative.

LUNGS: Clear.

HEART: Normal sounds.

ABDOMEN: Negative.

NEUROLOGICAL: Gait is normal, straight leg raise slightly positive bilaterally. Motor examination is normal. Present is bilateral intermittent lumbar radiculitis, right disc bulge, osteophytes.

IMPRESSION:

Admitted at this time for a lumbar decompression bilateral S5-S1 with hemilaminectomy. Preservation of spinous processes. Discussed procedure with him, postoperative course and risks associated and he wished to proceed with the surgical treatment.

~~DONALD A. RAMBERG, M.D.~~

DAR:MQ/

d: 12/12/2006 16:36:31 t: 12/12/2006 19:01:34 JOB# 506959

Authenticated by Donald A. Ramberg, MD On 12/13/2006 12:28:57 PM

EXHIBIT Q

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

HEALTH CARE SERVICES PHYSICIAN REQUEST FOR SERVICES

(To be completed by requesting Physician and forwarded to Utilization Management Unit) C-2204

PATIENT NAME MARTIN, Elbert		CDC NUMBER 128520	INSTITUTION CTF
DATE OF BIRTH 5-7-56	EPRD DATE 2013	GENDER	
PRINCIPLE DIAGNOSIS L5-S1 HNP + NF stenosis		ICD-9 CODE	CPT CODE(S)
REQUESTED SERVICE(S) Consult Neuro Surgeon		# OF DAYS RECOMMENDED	
Please circle all that apply: Diagnostic Procedure/Consultation Outpatient/Inpatient Initial/Follow-up			
Requested Treatment/Service is: EMERGENT URGENT ROUTINE			
For the purpose of retrospective review, if emergent or urgent, please justify:			
Proposed Provider:		Anticipated Length of Stay:	
Expected disposition (i.e.: outpatient follow-up, return to institution, transfer):			
Medical Necessity (briefly describe the clinical situation; the history of the illness, treatments used, pertinent lab and imaging studies, or questions for the consultant): LBP x 14y. after industrial injury. MRI 1992 - HNP MRI 2002 - L5, HNP			

Estimated time for service delivery, recovery, rehabilitation and follow-up:

Summary of preliminary or diagnostic work up, conservative treatment provided (if applicable, please provide TB code, CD4, viral load, albumin, total protein and dates within last 3 months):

Comments (diagrams, risk factors, prognosis, alternative management, etc.):

REQUESTING PHYSICIAN PRINTED NAME C. SINNA CO	APPROVED / AUTHORIZED / DENIED / DEFERRED BY M. P. For R. Friedman By VAE N. Dwyer	DATE 7.7.06
REQUESTING PHYSICIAN SIGNATURE C. L. Sinna	DATE 7-28-06	Utilization management tracking #:
DATE OF CONSULTATION 10/3/06	PRINTED NAME OF CONSULTANT DONALD RAMBERG, MD	
FINDINGS: lumbar laminectomy related from lumbar stenosis--L		

RECOMMENDATIONS: **lumbar laminectomy L5-S1**FOLLOW-UP OR FURTHER EVALUATIONS REQUESTED: **Surry**

CONSULTANT SIGNATURE [Signature]	DATE 10/3/06	CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH
ETA RN SIGNATURE	DATE	
PCP SIGNATURE	DATE	

Attach Progress Note page for additional information.

THIS FORM MUST BE RETURNED WITH THE PATIENT!!!

DISTRIBUTION:

ORIGINAL - FILE IN UHR
 GREEN - TO UHR PENDING ORIGINAL
 CANARY - CONSULTANT
 PINK - UM
 GOLD - SPECIALTY SCHEDULER

EXHIBIT R

SIERRA VISTA REGIONAL
MEDICAL CENTER
1010 Murray Ave,
San Luis Obispo, CA 93405
805-546-7953
DOB: 05/07/1956 *T28520*
Page 1 of 1

PT: MARTIN, ELBER
MR#: 000688448 SVM
PT: 1 RM: 0499 X
ADM: 12/13/2006 DIS:
ACCT: 9680969 AUTH ID: V600
168047RAMBERG
OPERATIVE REPORT

DATE OF OPERATION: 12/13/2006

SURGEON: DONALD A. RAMBERG, M.D.

ASSISTANT SURGEON: RNFA

PREOPERATIVE DIAGNOSIS: Lumbar radiculitis, bilateral L5-S1, spondylolisthesis and spondylosis.

POSTOPERATIVE DIAGNOSIS: Lumbar radiculitis, bilateral L5-S1, spondylolisthesis and spondylosis.

PROCEDURE: Posterior lumbar decompression of bilateral L5-S1.

DESCRIPTION OF PROCEDURE: Under endotracheal anesthesia, the patient was placed in the prone position, prepped and draped in the usual manner. A low lumbar incision was made and carried down to expose bilaterally the lamina of L5 and the sacrum. X-rays were used for identification. Beginning on the left side, a partial inferior hemilaminectomy of L5 was done with partial removal of the superior facet of the sacrum to allow opening of the neural foramen. The disk was not protruding much beyond the bone edges. Spondylolisthesis was noted. The neural foramen could be cleared adequately. Gelfoam was placed over the exposed nerve root and thecal sac. Then attention was directed to the right side. There a partial inferior hemilaminectomy of L5 was done with partial inferior facetectomy along with partial superior facetectomy of L5 and then the sacrum were done. Neural foramen was opened widely on the right side and no herniated disk fragments were noted. The disk was fairly flat. The epidural was cauterized with the bipolar cautery and the Gelfoam was left over the exposed nerve root and thecal sac. Muscle and fascia were closed with #1 Vicryl followed by subcutaneous tissues with 2-0 Vicryl and the skin with staples.

DONALD A. RAMBERG, M.D.

DAR:MQ/

d: 12/13/2006 12:32:27 t: 12/13/2006 13:48:54 JOB# 168047

Authenticated by Donald A. Ramberg, MD On 12/18/2006 1:57:00 PM

EXHIBIT S

Sierra Vista
Regional Medical Center
Tener California

251-21
D-2
SCANNED



HOME MEDICATIONS (Include Herbal, OTC, Investigational Drugs, and Patches)							HOSPITAL MEDICATIONS • ORDERS			CONTINUE AT HOME
MEDICATION (PLEASE PRINT)	SC*	DOSE	RTE	FREQ.	REASON FOR USE	LAST TAKEN DATE/TIME	CONTINUE ON ADMISSION	DOSE CHANGE TO...	FREQ. CHANGE TO...	RENEW UPON DISCH.
HTN						12-11	<input type="checkbox"/> YES <input type="checkbox"/> NO			<input type="checkbox"/> YES <input type="checkbox"/> NO
Gabapentin						12-11	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
Lipitor						12-11	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
Tylenol						12-12 2030	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
							<input type="checkbox"/> YES <input type="checkbox"/> NO			<input type="checkbox"/> YES <input type="checkbox"/> NO
							<input type="checkbox"/> YES <input type="checkbox"/> NO			<input type="checkbox"/> YES <input type="checkbox"/> NO
							<input type="checkbox"/> YES <input type="checkbox"/> NO			<input type="checkbox"/> YES <input type="checkbox"/> NO
							<input type="checkbox"/> YES <input type="checkbox"/> NO			<input type="checkbox"/> YES <input type="checkbox"/> NO
							<input type="checkbox"/> YES <input type="checkbox"/> NO			<input type="checkbox"/> YES <input type="checkbox"/> NO

*Source Code: P= Patient NH= Nursing Home F= Family Member H= Hospital Record B= Med Bottle Rx= Patient's Pharmacy

ADMITTING NURSE: *J. Rincon*

DATE: 12/13 TIME: 1020

NURSE NOTED	DATE	TIME	DATE/TIME	ADMITTING PHYSICIAN SIGNATURE OR AUTH ID #
			12/13/06	<i>[Signature]</i>
24 HR. CHART CHECK BY NURSE	DATE	TIME	DATE/TIME	ADMITTING PHYSICIAN SIGNATURE OR AUTH ID #
			12/13/06	<i>[Signature]</i>
READ BACK:				INITIALS:

Home and Current Hospital Medications Reviewed Prior to Discharge ☒ YES ☐ NO

Discharging Physician's Signature

DATE

TIME

COPY FAXED to DR (Primary Care Physician) ☐ YES ☐ NO

DISCHARGE PRESCRIPTION ORDERS (FOR FACSIMILE USE ONLY)							
NOT for Schedule II Medications							
FAXED AS A COURTESY FOR DOCTOR:		FAXED BY:		DATE:		PHARMACY NAME:	
<i>Ramberg</i>						<i>CAFC</i>	
						PHARMACY FAX#: <i>COLESON</i>	
MEDICATION (PLEASE PRINT)	DOSE	ROUTE	FREQ.	REASON FOR USE	QUANTITY	REFILLS	
<i>Advocet 1100</i>	<i>5-7</i>	<i>po</i>	<i>q4h</i>	<i>prn</i>			
PHYSICIAN SIGNATURE				DATE		DEA NUMBER	
<i>[Signature]</i>				12/11/06		A12329933	

THE PRESCRIBING PHYSICIAN MUST BE CALLED FOR ALL CLARIFICATIONS

MEDICATION CONTINUUM
ORDER SET
Page 1 of 1



ACCT#9680969

MR# 000688448 12/13/2006 FC:81 0/35
MARTIN, ELBERT DOB:05/07/1956
Dr. RAMBERG DONALD A - M 50y
Sierra Vista Regional Medical Center

EXHIBIT 7

EXHIBIT - E

DEPARTMENT OF CORRECTIONS

STATE OF CALIFORNIA

DATE OF ADMISSION: 12/15/06

HISTORY OF PRESENT ILLNESS: This patient is status post lumbar laminectomy at Sierra Vista Hospital done by Dr. Ramberg on the 13th. The patient is still ambulating somewhat poorly and will be unable to get to the chow hall and so is admitted here for progressive ambulation only. He is doing well otherwise.

PAST MEDICAL HISTORY: His other medical problems include hypertension, increased cholesterol, heartburn (likely GERD), and asthma which is primarily a nighttime problem for the patient. He has no known drug allergies. His TB code is 31. His only previous surgery was an outpatient removal of a breast lump likely gynecomastia.

FAMILY HISTORY: His father is deceased of cancer of the liver. His mother is 86 years old and generally in good health although she has a pacemaker. He has three sisters in good health and three children in good health.

SOCIAL HISTORY: He has used cocaine in the past, the last time in 1992. He is also an ex-tobacco smoker since 1992. For employment on the street he is a driver. His parole date is 2012.

REVIEW OF SYSTEMS: He complains of a recent sore throat. EENT otherwise negative. Neck – no masses, swelling, tenderness or thyroid disease. Chest – no cough or wheeze. Nocturnal asthma, especially with temperature changes. Otherwise no chest complaints. Cardiac – no rapid or slow heartbeat, syncope or palpitation. GI – no nausea or vomiting or diarrhea. He has had constipation since the surgery. GU – he has had a rash on the scrotum.

PHYSICAL EXAMINATION:

GENERAL APPEARANCE: He is awake, alert and cooperative, oriented x three and in no acute distress, but moves very slowly and keeps his back quite straight.

VITAL SIGNS: His weight is 192 pounds; blood pressure 152/98; temperature 98.9 oral; pulse 84 and regular; respirations 14.

→ HEENT: ENT reveals blister-type lesions on the soft palate, some of them opened, and about a half-dozen, 2 to 3 mm lesions noted.

NECK: Supple without adenopathy.

LUNGS: Chest clear to auscultation and percussion with equal bilateral breath sounds.

COR: Regular rate and rhythm without murmur, rub or gallop.

ABDOMEN: Benign without masses or tenderness.

INGUINAL/GENITALIA AND RECTAL: Deferred but on previous exam he has an eczematoid rash on the scrotum.

EXTREMITIES: Unremarkable

continued.....

CDC NO: T-28520

NAME: MARTIN, ELBERT

DOB: 5/7/56

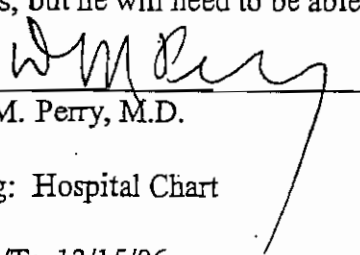
(E)
DATE OF ADMISSION: 12/15/06

Page 2

ASSESSMENT:

1. Post-op lumbar laminectomy.
2. Constipation secondary to narcotics.
3. Hypertension.
4. Increased cholesterol.
5. Gastroesophageal reflux disease.
- 6. Intermittent bronchospasm.

PLAN: Patient is admitted to the hospital for progressive ambulation. His medications will be continued. He will be on Vicodin for pain. Hopefully he can be discharged to general population within the next three or four days, but he will need to be able to climb stairs and ambulate a little better than currently before discharge.


D. M. Perry, M.D.

Orig: Hospital Chart

D/R/T: 12/15/06

CDC NO: T-28520

NAME: MARTIN, ELBERT

DOB: 5/7/56

EXHIBIT U

PATIENT TRANSFER AND REFERRAL RECORD

ORIGINAL / MEDICAL RECORD CANARY / RECEIVING FACILITY SV68889/36600 Rev. 02/97

EXHIBIT ✓

NOTE: SEND COPY OF PHYSICIAN'S ORDER FOR MEDICATION
TO PHARMACY AFTER EACH ORDER IS SIGNED.

Order Date	Time	Problem #	Physician's Order and Medication (Orders must be dated, timed, and signed.)
12/18/06	1320		Vicodin i to ii tabs PO Q6° PRN pain X24° T.O. Dr. Mission / Jluwa
noted by: Jluw 12/18/06 1320			
24° ✓ Dominique 12/19/06 @ 0100			
12/19/06			Discharge to GP Vicodin 1-2 po tid prn pain x 1 wk, then D/C Zithromax 250mg po qd today + tomorrow, then D/C L. Green / Jluw
12/19/06 noted by Jluw to Dr. P. L. L. L. L.			
12-19-06	1435		shorts for HIV @ Dr. P. L. L. L. L. If discharged today, may remove Hgls @ WEST
ALLERGIES: NKA		Medication for HIV. TID PR X1 week: Dr. G. L. L. L. L.	
INSTITUTION: Onc		ROOMING: all C	

Confidential
client information
See W & I Code, Sections 4514 and
5328

PHYSICIAN'S ORDERS

CDC NUMBER, NAME (LAST, FIRST, MI)

MARTIN, GILBERT

T 28520

5-7-56

CMC-Hosp.

DATE	TIME	
12-18-06	06	PT - eval complete - get PT notes P) Review Gait/TX tomorrow for possible PC Turning Review PT
12-18-06		Med Assy Coverage - → Allow pain in left leg - Slow ambulator - See notes in OT/PT section. Takes Vicodin only about 2X/day See notes in PT (JMK) Expect Discharge (~2d) JMK
12-19-06		PT - reviewed TX, Gait to push-off (L, swing R). PT favors hip ER → swing R a bit (LLE ext weakness (L > R). PT (P) Transfers, Gait & Safe to → DL to west side. Turning Review PT

INSTITUTION

CMC

HOUSING UNIT

211C

CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH

MARTIN, GILBERT

T28520

INTERDISCIPLINARY PROGRESS NOTES

DATE	NOTES
12-18-06	MD Order - PT eval
	Prior to surgery - L5-S1 spondylolisthesis, disc bulge, bilateral neural foraminal stenosis L5-S1.
	s/p - Post. lumbar decompression bilateral L5-S1
	L5 hemilaminectomy (L), (L) facetectomy (S)
	L5 " " (R), (R) " " L5 & S1
	PT was (I) Transfer, Gait x 250' & device
	12-14-06 per PT-hospital notes (Sierra Vista)
	Sensation: radiating pain (L) post thigh, LBP
	Strength: UE's WNL's, LE abd/ER 3/5 at best
	pt requires (R) for sit & stand & SPC.
	Gait (I) Slow & Gait favors hip ER.
	A/P - ved knowledge neutral spine.
	LE weakness, ved trunk stability
	Gait speed < than normal.
	P) Normalize functional Gait speed (I) HEP
	to ↓ (L) radicular pain & strengthen LES
	DC to West by Wed.
	Instructed on spine positioning, sit & stand
	(L) LE ROM & wall slide to 30°
	Review TX & Gait tomorrow.
	Turning Review PT

PHYSICAL THERAPY PROGRESS NOTES

CDC NO: T28520

NAME: Martin, G

DOB:

EXHIBIT W

STATE OF CALIFORNIA

Document Effective Communication

DEPARTMENT OF CORRECTIONS

REASONABLE MODIFICATION OR
ACCOMMODATION REQUEST
DC 1824 (1/95)

INSTITUTION/PAROLE REGION: C MC-EAST	LOG NUMBER: 06-2972	CATEGORY: 18. ADA
---	------------------------	----------------------

NOTE: THIS FORM IS TO BE USED ONLY BY INMATES/PAROLEES WITH DISABILITIES

In processing this request, it will be verified that the inmate/parolee has a disability which is covered under the Americans With Disabilities Act.

INMATE/PAROLEE'S NAME (PRINT) BERT THOMAS MARTIN	CDC NUMBER T-28520	ASSIGNMENT NONE	HOURS/WATCH NONE	HOUSING A-2112
---	-----------------------	--------------------	---------------------	-------------------

In accordance with the provisions of the Americans With Disabilities Act (ADA), no qualified individuals with a disability shall, on the basis of disability, be excluded from participation in, or be denied the benefits of the services, activities, or programs of a public entity, or be subjected to discrimination.

You may use this form to request specific reasonable modification or accommodation which, if granted, would enable you to participate in a service, activity or program offered by the Department/Institution/facility, for which you are otherwise qualified/eligible to participate.

Submit this completed form to the institution or facility's Appeals Coordinator's Office. A decision will be rendered within 15 working days of receipt at the Appeals Coordinator's Office and the completed form will be returned to you.

If you do not agree with the decision on this form, you may pursue further review. The decision rendered on this form constitutes a decision at the FIRST LEVEL of review.

To proceed to SECOND LEVEL, attach this form to an Inmate/Parolee Appeal Form (CDC 602) and complete section "F" of the appeal form.

Submit the appeal with attachment to the Appeals Coordinator's Office within 15 days of your receipt of the decision rendered on this request form.

If you are not satisfied with the SECOND LEVEL review decision, you may request THIRD LEVEL review as instructed on the CDC 602.

MODIFICATION OR ACCOMMODATION REQUESTED

DESCRIPTION OF DISABILITY:

(CHRONIC) BACK PAIN AND LEFT LEG HAS PAIN
RUNNING DOWN FROM HIP TO FEET (BACK SURGERY)

WHAT VERIFICATION DO YOU HAVE OF YOUR DISABILITY?

(BACK SURGERY) WAS DONE ON 12-13-06 AT
SIERRA VISTA Hosp, By DR ROSEN BURG

DESCRIBE THE PROBLEM:

(UNABLE TO STAND OR WALK FOR LONGER THAN
15 mins) WITH EQUAL PRESSURE ON BOTH LEGS OR FEET
(UNABLE TO SLEEP ON HIPS AND BACK) DUE TO THIN MATTRESS

WHAT SPECIFIC MODIFICATION OR ACCOMMODATION IS REQUESTED?

- 1) PROVIDE INMATE WITH WALKING CAIN
- 2) PROVIDE INMATE WITH DEBBIE MATTRESS AND
OR Egg CRATE MATTRESS

DEC 29 2006

INMATE/PAROLEE'S SIGNATURE

CMC APPEALS OFFICE

DATE SIGNED

12/26/06

TREAT AS ORIGINAL
CategoryINMATE/PAROLEE
APPEAL FORM

CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

1. CMC-E

1. 06-297-2

AOA

2. _____

2. _____

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken or using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
Martin	T-28520		2112

1. Describe Problem:

If you need more space, attach one additional sheet.

3. Action Requested:

Inmate/Parolee Signature: _____ Date Submitted: _____

2. INFORMAL LEVEL (Date Received: _____)

Staff Response:

Staff Signature: _____ Date Returned to Inmate: _____

3. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 1 28, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

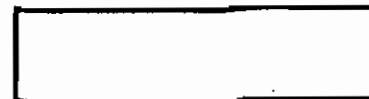
Signature: _____ Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number:

DEC 29 2006

CMC APPEALS OFFICE



INMATE APPEAL ASSIGNMENT NOTICE

To: INMATE MARTIN, T28520
Current Housing: EFAQB1F100001145X

Date: January 2, 2007

From: INMATE APPEALS OFFICE

Re: APPEAL LOG NUMBER: CMC-E-06-02972

ASSIGNED STAFF REVIEWER: HCM
APPEAL ISSUE: ADA
DUE DATE: 01/23/2007

(Cain taken away)

Inmate MARTIN, this acts as a notice to you that your appeal has been sent to the above staff for SECOND level response. If you have any questions, contact the above staff member. If dissatisfied, you have 15 days from the receipt of the response to forward your appeal for THIRD level review. Third level appeals are to be mailed directly to:

Chief of Inmate Appeals
Department of Corrections
P. O. Box 942883
Sacramento, CA 94283-0001

D. Engler/M. Vela
CC-II Specialist
California Men's Colony

- No reply - on 602

Memorandum

Date: June 26, 2007

To: MARTIN, T28520
California Correctional Institution (CCI)

Subject: SECOND LEVEL APPEAL RESPONSE
LOG NO.: CMC-E-06-2972

ISSUE:

Inmate Martin alleges that he is unable to stand or walk for longer than 10 to 15 minutes with equal pressure on both feet. In addition, he claims that he is unable to sleep due to his thin mattress.

Inmate Martin is requesting to be provided with a walking cane and to be provided with a double mattress or egg crate mattress.

INTERVIEWED BY: K. Sampson, Correctional Counselor II, at CCI

REGULATIONS: The rules governing this issue are:

Armstrong v. Schwarzenegger Court Ordered Remedial Plan Section (ARP) I. POLICY

It is the policy of the California Department of Corrections and Rehabilitation (CDCR) to provide access to its programs and services to inmates and parolees with disabilities, with or without reasonable accommodation, consistent with legitimate penological interests. No qualified inmate or parolee with a disability as defined in Title 42 of the United States Code, Section 12102 shall, because of that disability, be excluded from participation in or denied the benefits of services, programs, or activities of the Department or be subjected to discrimination. All institutions/facilities housing inmates with disabilities will ensure that housing and programming are reasonable and appropriate in a manner consistent with their mission and Department policy.

ARP II.F. Reasonable Accommodation/Modification

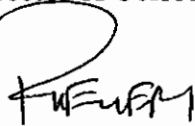
The Department shall provide reasonable accommodations or modifications for known physical or mental disabilities of qualified inmates/parolees. The Department shall consider, on a case-by-case basis, accommodations for inmates/parolees with impairments that are temporary in nature. Examples of reasonable accommodations include special equipment (such as readers, sound amplification devices, or Braille materials), inmate or staff assistance, bilingual or qualified sign language interpreters, modifying work or program schedules, or grab bars installed for mobility impaired inmates who require such (including mobility impaired inmates whose disability does not impact placement).

MARTIN, T28520
CASE NO. CMC-E-06-2972
PAGE 2

At the second level of review an inquiry was conducted which included a review of your Reasonable Modification or Accommodation Request and all other pertinent documentation. In researching the issues of your Reasonable Modification or Accommodation Request and the interview with you conducted by CCII Sampson, it was determined that you were provided the requested accommodations while at CMC for pain as a result of back surgery. You indicate that your pain and related issues have now subsided due to the healing process and that you no longer require accommodation.

DECISION: The appeal is partially granted.

You are advised that this issue may be submitted for a Director's Level of Review if desired by completing section "H" of the CDCR 602 and mailing the appeal to the Director of Corrections and Rehabilitation at the address listed on the CDCR 602.

A handwritten signature in black ink, appearing to read 'R. Meyers'.

ROBERT MEYERS, MD.
Health Care Manager
California Men's Colony

EXHIBIT X

Document Effective Communication

INMATE/PAROLEE
APPEAL FORM
CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

1. CMC-EAST

1. 07-00214

property

2. _____

2. _____

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
ELBERT (MARTIN)	T-28520	NONE	A-QA-1156-X

A. Describe Problem: On 12-13-06, @ 0900 hrs. Inmate Martin was ask to strip down to his underwear so that he could be transported to Sierra Vista Hosp. for Back Surgery, upon leaving the cell inmate was told that he could not take anything with him, and that I would have to leave it behind, meaning my (Legal Papers). I was told by C/o England 2nd Watch, that the cell I was in BQ B4-4114, would be left open for the next 3-days for me, and that my (Legal Papers) should be left in the cell, it was put inside a plastic bag and left inside the cell, (see attached sheet)

If you need more space, attach one additional sheet.

B. Action Requested: Have All Legal Papers returned, so that Legal Papers can be submitted to the courts in a timely matter.

Inmate/Parolee Signature: Elbert Martin Date Submitted: 1-21-07

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

BYPASS

Staff Signature: _____ Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification Chronology, CDC 118, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

BYPASS

Signature: _____ Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed

CDC Appeal Number: _____

Board of Control form BC-1E, Inmate Claim

MAR 23 2007

APR 06 2007

JAN 25 2007

CMC APPEALS OFFICE

CMC APPEALS OFFICE

CMC APPEALS OFFICE

Page 2 of 2

Cont.

1-21-07

CCL-602-Inmate / Parolee Appeal form

ELBERT MARTIN

T-28520

A-QD-1156-X

Inmate left Sierra Vista Hosp. on 12-15-06, and was admitted to CMC-Hosp on 12-15-06, on 12-19-06 Inmate was released to A-QD-2112, Inmate has sent (Inmate Request Form) to C/O England 2nd Watch, (Inmate Ad-Seg B4-4114-BQ) stating what as happen and at this time Inmate as not need any reply as to the where abouts of inmates Legal Papers.

Inmate:

Elbert Martin

1-21-07

INMATE APPEAL ASSIGNMENT NOTICE

To: INMATE MARTIN, T28520
Current Housing: EFAQB1F100001156X

Date: January 26, 2007

From: INMATE APPEALS OFFICE

Re: APPEAL LOG NUMBER: CMC-E-07-00214

ASSIGNED STAFF REVIEWER: AWPS
APPEAL ISSUE: PROPERTY
DUE DATE: 03/12/2007

Inmate MARTIN, this acts as a notice to you that your appeal has been sent to the above staff for FIRST level response. If you have any questions, contact the above staff member. If dissatisfied, you have 15 days from the receipt of the response to forward your appeal for SECOND level review.

D. Engler/M. Vela
CC-II Specialist
California Men's Colony

PROOF OF SERVICE BY MAIL

I, ELBERT MARTIN, am a resident of a California State Prison in Kern County, am over the age of eighteen (18), and am a party to this legal action. My prison address is: California Correctional Institution, P.O. Box 1031, Tehachapi, CA 93581.

On 19 MARCH 2007, I served the following documents:

INMATE/PAROLEE APPEAL FORM, Log # CMC-
E-01-00214 (PROPERTY) (MEMORANDUM)

upon the party(s) listed herein by placing a true copy(s), enclosed in a sealed envelope(s), with sufficient postage affixed, into the receptical provided for the United States Mail Service, deposited in the manner prescribed by the CDC, at the California Correctional Institution and addressed as follows:

ATTN: INSTITUTION APPEALS COORDINATOR
-SECOND LEVEL- REVIEW
CALIFORNIA MEN'S COLONY
P.O. Box 8101
SAN LUIS OBISPO CA, 93409-8101

There is regular delivery service by the United States Postal Service between the two locations.

I declare, under penalty of perjury, that the foregoing information is true and correct.

Executed on 19 MARCH 2007

Elbert J. Martin

Declarant / Server

T-28520

CC: ATTORNEY GENERAL
CC: STATE ASSEMBLY MEMBER

State of California
CDC FORM 695
Screening For:
CDC 602 Inmate/Parolee Appeals
CDC 1824 Reasonable Modification or Accommodation Request

RE: Screening at the SECOND Level

March 23, 2007


MARTIN, T28520
EFAQB1F100001156X

Log Number: CMC-E-07-00214

(Note: Log numbers are not assigned to screen out appeals, or informal level appeals)

The enclosed documents are being returned to you for the following reasons:

Indicate why you disagree with the First Level response and return to the Appeals Office.


D. Engler/M. Vela
CC-II Specialist
California Men's Colony

NOTE: Failure to follow instruction(s) will be viewed as non-cooperation and your appeal will be automatically dismissed pursuant to CCR 3084.4(d). This screening decision may not be appealed. If you believe this screen out is in error, please return this form to the Appeals Coordinator with an explanation of why you believe it to be in error, and supporting documents. You have only 15 days to comply with the above directives.

PERMANENT APPEAL ATTACHMENT – DO NOT REMOVE

1 ATTACHED FORM, 602 INMATE; PAROLEE APPEAL FORM

2
3 TO: M. VELA CC-II SPECIALIST, CALIFORNIA MENs COLONY

4 SUBJECT: CDC FORM 695 SCREENING FORM

5 RE: SCREENING AT THE SECOND LEVEL

6
7 F. If dissatisfied, explain reasons for requesting a Second-Level Review
8 , and submit to Institution or Parole Region Appeals Coordinator within
9 15 days of receipt of response.

10
11 Disagree: INMATE MARTIN-T28520 DISAGREE WITH THE FIRST LEVEL RESPONSE
12 BECAUSE CMC-EAST STAFF HAS FAILED TO REMEDY THE PROBLEM OF LOST PROPERTY
13 AND WILL NOT BE ABLE TO FIND INMATES PROPERTY, AS INMATE MARTIN HAS SPOKEN
14 WITH SGT. DIEBALL , AND HE AS SAID THAT THERE IS NOTHING ELSE THAT HE OR HIS
15 STAFF CAN DO IN THIS MATTER, IN THAT THE LEGAL PROPERTY IS LOST.

16 I DISAGREE WITH THE FIRST LEVEL RESPONSE ALSO BECAUSE THE CAVALIER
17 ATTITUDE TO THEIR CONTRACTUAL AND ETHICAL RESPONSIBILITIES IS UNACCEPTABLE.
18 THEIR INABILITY OR UNWILLINGNESS TO COMMUNICATE EFFECTIVELY IS EQUALLY
19 UNACCEPTABLE.

20
21 DATED: MARCH -30-2007 RESUBMIT

Albert J. Martin

22
23 cc; ATTORNEY GENERAL
24 cc; STATE ASSEMBLY MEMBER
25
26
27
28

State of California

Department of Corrections and Rehabilitation



Memorandum

Date : February 13, 2007

To : MARTIN, Elbert
T-28520 1156X
CMC East Facility

Subject : CMC APPEAL LOG #CMC-E-07-00214 (PROPERTY)
FIRST LEVEL REVIEW

ACTION REQUESTED: LOCATE AND RETURN MISCELLANEOUS NOTES OF
LEGAL MATTERS

APPEAL: DENIED

A review of your appeal has been completed. Your Appeal/Complaint including your requested remedial action has received careful consideration. In your appeal, you contend that on 12-13-06 at approximately 0900 hours, while you were housed in Administrative Segregation Unit, cell 4114, at CMC-East Facility, you were ordered to strip down to your underwear in preparation to be transported to the Sierra Vista Hospital for back surgery. You further contend that custody staff had stated to you that you are not allowed to take anything with you. Correctional Officer D. England on Second Watch stated to you that the cell would be left open for the next three (3) days, for you, and that your miscellaneous notes of legal matters should be left in the cell. Additionally, you contend that you observed that your legal papers (miscellaneous notes) were placed in a plastic bag and left in your assigned cell 4114. Upon your return to the institution and after receiving your personal property from Receiving & Release, you noticed these items were missing. The action you requested to remedy this situation is to locate/return your personal legal papers, so that you can submit your legal matters to the courts in a timely manner.

On 2/2/07, at approximately 1000 hours, I interviewed you regarding your appeal/complaint and you reiterated the issues of your appeal. During the interview, I had asked that you describe the missing legal items. You stated that you were missing "various" legal paperwork(s) in which you had in your assigned cell (4114), at the time that you were transported to Sierra Vista Hospital. I further asked you if you are able to request/receive another copy of the missing legal material from the courts. You stated that the paperwork in question was "notes" of documented times/dates of legal matters, and that this information cannot be regenerated from the courts.

On 2/6/07, I conducted an interview with Correctional Officer D.L. England, regarding your lost property. Officer England indicated that he remembered removing your property items (paperwork) and delivering these items to the Administrative Segregation Unit (ASU) 1st Floor Overflow Office. These items were held in the office, until they were taken to Receiving and Release and placed back into your stored property by the ASU Property Officer. Officer England was unable to recall when the ASU Property Officer accomplished this task.

FIRST LEVEL REVIEW

Appeal Log # CMC-E-07-00214

Page 2 of 3

On 2/7/07, I conducted an interview with Correctional Officer H. Keel. Officer Keel was assigned as the **ASU Property Officer** during the time in question. The interview revealed that Officer Keel remembers collecting/delivering property to Receiving & Release, but was uncertain if any of the property he collected or delivered belonged to you.

On 2/7/07, I conducted an interview with Correctional Officer M. Calsing, Administrative Segregation Unit (ASU) Property Officer, regarding your lost property. The interview revealed that Officer Calsing had conducted a thorough search of Receiving & Release for your missing property with negative results.

On 2/9/07, I contacted Receiving & Release and requested they search for the missing property. Subsequently, the Receiving & Release staff informed me that they might have located the missing property and the staff requested to have you report to Receiving & Release on 2/10/07. On 2/10/07, you and I reported to Receiving & Release, CMC-East Facility, at which time, Correctional Officer J.W. Cones reported that he could not locate the missing items.

A review of the circumstances surrounding your appeal indicates that ASU staff failed to appropriately process your missing property items (miscellaneous legal notes) from ASU back into your stored property in Receiving and Release. Despite their best efforts, ASU and Receiving and Release staff have been unable to locate these property items. As staff have been unable to comply with your requested action, your Appeal/Complaint is denied. Should you be dissatisfied with this appeal decision, you may, by following the instructions listed on your Inmate Appeal Form (CDC 602), request a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

APPEAL: DENIED

REVIEWED AND APPROVED



B.G. DIEBALL
Correctional Sergeant
ASU Annex Overflow 1st Floor Sergeant
California Men's Colony



D. CAREY
Associate Warden
Program Services
California Men's Colony

cc: C-File, Appeals File

State of California

Department of Corrections and Rehabilitation

Memorandum

Date: April 24, 2007

To: MARTIN, Elbert
T-28520 VWL 43-L
California Correctional Institution

Subject: SECOND LEVEL APPEAL RESPONSE LOG NUMBER-CMC-E-07-00214

ISSUE:

The appellant contends that on December 13, 2006, he was transported from CMC East Facility to an outside hospital for a medical procedure, and that upon his return to the Institution, he learned that CMC ASU staff had misplaced the legal paperwork that he had left in his Administrative Segregation cell. The appellant states that prior to being transported he was told to leave the legal paperwork in his assigned cell and assured that this paperwork would be forwarded to his stored property in Receiving and Release if after three days he was unable to return to CMC. The appellant also states that prior to his return to CMC he was removed from Administrative Segregation status and that when he did return he was rehoused in A-Quad. The appellant further states that when he received his property from Receiving and Release he noticed that the legal paperwork that he had left in his cell was missing. The appellant claims that he submitted an Inmate Request for Interview form in an attempt to locate the missing paperwork, and when he received no response, he submitted this appeal. The action requested by the appellant to remedy this situation is for all of the missing legal papers to be returned to him so that they can be submitted to the courts in a timely manner.

INTERVIEWED BY: K.T. Smith, Correctional Lieutenant

REGULATIONS: The rules governing this issue are:

CCR 3190 "*Personal Property-General Policy*"

CCR 3193 "*Liability*"

CMC Operational Plan #12 "*ASU Procedures*"

CMC DOM Supplement section 54030.10.2 "*Inmate Property*"

SUMMARY OF INVESTIGATION:

ASU Annex Sergeant, B. Dieball, addressed the First Level of Review (FLR). In this response, Sgt. Dieball denied this appeal as despite the best efforts of staff, he was unable to locate the missing paperwork. The efforts undertaken to locate this paperwork

Inmate MARTIN, E. (T-28520)

Case No. CMC-07-00214

Page 2

included a thorough search of Administrative Segregation, a through search of Receiving and Release at CMC East, and interviews with ASU staff.

The appellant indicates that he is dissatisfied with the first level response to this appeal because staff failed to locate the missing property and also due to CMC Staff's "...cavalier attitude to their contractual and ethical responsibilities".

Correctional Lieutenant K.T. Smith was assigned to investigate this appeal at the Second Level of Review. The submitted claim and all supporting documents received a thorough examination and evaluation in accordance with California Men's Colony (CMC) Operational Procedures (OP); the California Code of Regulations (CCR); and the Departmental Operations Manual (DOM) and the arguments contained in this claim have been considered.

On April 16, 2007, Lt. Smith conducted an interview of the appellant in regards to his claims. During this interview the appellant reiterated that which is documented in the appeal. The appellant indicated that he learned his legal paperwork was missing when he returned from an outside hospital. The appellant stated that he understood that staff had made several attempts to find the missing legal paperwork and that, while he appreciated these attempts, he wished to pursue this matter further with the hope of obtaining monetary compensation. When asked if this legal paperwork contained any pending court cases, the appellant stated "no". The appellant also indicated the nature of the legal paperwork was such that replacement would not be possible and admitted that he could not attribute a monetary value to the missing legal paperwork.

Taking the above-mentioned facts into consideration, the appellant's appeal is DENIED. As noted in the First Level response, CMC ASU and Receiving and Release staff made a significant effort to find the missing legal paperwork, however they were unsuccessful. It is further noted that during the interview the appellant stated that this legal paperwork could not be replaced, while admitting that it was not related to any pending court cases, and had no monetary value.

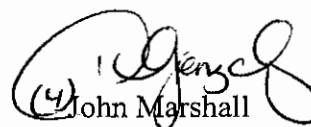
DECISION: The appeal is DENIED.

The appellant is advised that this issue may be submitted for a Director's Level of Review if desired.



D. Carey
AW-PS

California Men's Colony



(4) John Marshall
Warden

California Men's Colony

ATTACHED SHEET PAGE 1

INMATE /PAROLEE APPEAL FORM

DATE/ MAY -28-2007 DIRECTOR'S LEVEL

LOG NO. 07-00214- PROPERTY

DISSATISFIED; AT THIS TIME INMATE IS REQUESTING A DIRECTORS REVIEW ON THE APPEAL OF (LOST PROPERTY) (LEGAL WORK). THE ATTACHED EXHIBITS WILL SHOW THAT ASU STAFF DID IN FACT FAILED TO APPROPRIATELY PROCESS INMATE PROPERTY, AS SGT B.G. DIEBALL DID NOTE IN MEMORANDUM, DATED FEBRUARY 1-3-2007, AND THAT THOSE PARTIES INVOLVED HAVE ACCEPTED RESPONSIBILITY FOR THE DAMAGED OR LOST PROPERTY (PAR: 4 of page-2_ PER CCR 3193-LIABILITY. AFTER A TELEPHONE INTERVIEW WITH LT. SMITH, LT SMITH CONTENDS INMATE STATED IN (PAR-4 page-2_ OF MEMORANDUM DATED APRIL 24,2007 THAT THE APPELLANT ADMITTED THAT HE COULD NOT ATTRIBUTE A MONETARY VALUE TO THE MISSING LEGAL PAPERWORK, THIS IS VERY TRUE AS TO THE FACT THAT ONE CAN NOT PUT A PRUE ON HIS OR HERS FREEDOM, AND THAT IT IS FOR THE COUNTS TO DECIDED IF THE MATTER CAN NOT BE HANDLED AT THE ADMINISTRATIVE LEVEL. THEN LT. SMITH CONTENDS IN (PAR -5 of same page) APPELLANT STATES PROPERTY HAD NO MONETARY VALUE. WHICH AGAIN IS FOR THE PROPER COURTS TO DECIDED. INMATE IS ALSO DISSATISFIED WITH THE TIME FRAME IN WHICH IT TOOK THE SECOND LEVEL APPEAL TO BE RETURNED TO INMATE (SECOND LEVEL APPEAL) WAS SENT OUT (4-01-2007) (SEE ATTACHED ENVELOPE) WAS REC.D AT CMC AND ASSIGNED ON 4-06-2007, LT. SMITH INTERVIEW WAS ON 4-16-2007, 602 WAS COMPLETED ON 4-16-2007, BUT WAS NOT RETURNED TO INMATE UNTIL 5-18-2007)22 DAYS LATER, ONCE AGAIN PROVING AS INMATE STATED IN (MEMORANDUM DATED APRIL -24-2007, PAGE 2,PAR -2) THAT CMC STAFF SHOWS A CAVALIER ATTITUDE TO THEIR CONTRACTUAL AND ETHICAL RESPONSIBILITIES. APPEALS COORDINATOR HAS FAILED IN KEEPING IN COMPLAINE WITH (15CCRS 3084.6 (b)(3) WHICH IS DELAYING INMATE IN PROCEEDING IN A TIMELY MANNER SO THAT INMATE MAY SEEK RELIEF AT THE (DIRECTORS LEVEL), EXHAUSTING ADMINISTRATIVE REMEDIES, SO THAT INMATE MAY KEEP IN COMPLAINE WITH GOVERNMENT CODE § 91.4, OF MEETING THE SIX MONTH TIME LIMIT TO FILE WITH THE STATE BOAD OF CONTROL.

Date Submitted 5-28-07

Signature Ellen J. Martin

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
INMATE APPEALS BRANCH
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

DIRECTOR'S LEVEL APPEAL DECISION

SEP 04 2007

Date:

In re: Martin, T-28520
California Correctional Institution
P.O. Box 1031
Tehachapi, CA 93581

IAB Case No.: 0616114

Local Log No.: CMC 07-00214

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner S. Wright, Facility Captain. All submitted documentation and supporting arguments of the parties have been considered.

I APPELLANT'S ARGUMENT: It is the appellant's position that on December 13, 2006, he was transported from California Men's Colony (CMC) to an outside hospital for a medical procedure. The appellant contends that upon his return to the institution, he learned that CMC Administrative Segregation Unit (ASU) staff had misplaced the legal paperwork that he had left in his cell. The appellant contends that prior to being transported he was told to leave the legal paperwork in his assigned cell and assured that this paperwork would be forwarded to his stored property in Receiving & Release (R&R) if after three days he was unable to return to CMC. The appellant also contends that prior to his return to CMC he was removed from the ASU and that when he did return he was re-housed in "A" Quad. The appellant contends that when he received his property from R&R he noticed that the legal paperwork that he had left in his cell was missing. The appellant stated that he submitted an Inmate Request for Interview form in an attempt to locate the missing paperwork, and when he received no response, he submitted an appeal. The appellant requests that his missing paperwork be returned to him so that they can be submitted to the courts in a timely manner.

II SECOND LEVEL'S DECISION: The reviewer found that despite the best efforts of R&R Correctional Sergeant B. Dieball, staff was unable to locate the appellant's missing paperwork at the First Level of Review. The efforts undertaken to locate this paperwork included a thorough search of the ASU, a thorough search of R&R at CMC East, and interviews with ASU staff. At the Second Level of Review (SLR) the appellant stated that he understood that staff had made several attempts to find the missing legal paperwork and that, while he appreciated these attempts, he wished to pursue this matter further with the hope of obtaining monetary compensation. When asked if his legal paperwork contained any pending court cases, the appellant stated "no." The appellant also indicated the nature of the legal paperwork was such that replacement would not be possible and admitted that he could not attribute a monetary value to the missing legal paperwork. The appellant's appeal was denied at the SLR.

III DIRECTOR'S LEVEL DECISION: Appeal is granted in part.

A. FINDINGS: The rules governing this issue are California Code of Regulations, Title 15, Section (CCR) 3160(a) Inmate Access to the Courts. Inmate access to the courts shall not be obstructed. A review of the circumstances surrounding the appellant's missing property indicates that staff failed to appropriately process the appellant's legal paperwork from ASU back into his stored property in R&R. The examiner found that the institution and R&R staff made a significant effort to find the appellant's missing legal paperwork; however, during their attempts to locate the missing legal paperwork and their interview with the appellant, they did not require the appellant to provide specific information on the court documents he was missing or the legal material from which he derived his legal notes from. If after interviewing the appellant he can establish that he does know the specific court/case and provide details (such as divorce papers) of the legal paperwork in his possession at the time his property was left in the cell, the institution shall be required to pay for any required copies of case material.

B. BASIS FOR THE DECISION:
CCR: 3190, 3191, 3193, 3391

MARTIN, T-28520
CASE NO. 0616114
PAGE 2

C. ORDER: The CMC shall ~~re-interview the appellant in order~~ for him to identify the specific court/case(s), legal correspondence and material used to produce his legal notes in order for the appellant to submit missing documents to the courts in a timely manner. The appellant shall be required to specifically identify any legal documents, specific dates of the documents or cases, along with specific courts and cases from which the documents originated from. From the appellant's list of lost legal work the appellant should then be able to recover or recreate most of the missing legal work. In addition, the institution shall make an attempt to contact the appellant's attorney for copies of only the specified documents/legal correspondence in an attempt to recover the appellant's original paperwork. The institution shall be required to pay for any required copies of court cases or copies of correspondence from his attorney. If the appellant is unable to provide the specific information required for recovery of the missing legal work, this will be considered lack of cooperation and shall result in cancellation of the appeal.

This issue was discussed with the office of Chief Deputy Warden.

This decision exhausts the administrative remedy available to the appellant within CDCR.



N. GRANNIS, Chief
Inmate Appeals Branch

cc: Warden, CCI
Appeals Coordinator, CCI
Appeals Coordinator, CMC

CALIFORNIA CORRECTIONAL INSTITUTION
 STATE PRISON - UNIT-1 BRIGGS HALL - BED 32-20W
 P.O. BOX 107
 TEHACHA, CA 93581

TO: INMATE APPEALS BRANCH

SUBJECT: DIRECTOR'S LEVEL APPEAL DECISION / N. GRANNIS, CHIEF
 RE: ELBERT THOMAS MARTIN - Legal Property

IAB CASE NO: 0616114

Legal Log NO: CMC-07-00214

THE DIRECTOR OF APPEALS CONTENTS THAT THE APPELLANT did NOT specify which documents, legal material, and/or legal notes appellant is missing, AND THAT THE APPELLANT NEEDS TO IDENTIFY THE SPECIFIC COURT / CASE(S), LEGAL CORRESPONDENCE AND MATERIAL SO THAT THE INSTITUTION (CMC) MAY BE ABLE TO RECOVER OR RECREATE MOST OF THE MISSING LEGAL WORK, IN ADDITION TO CONTACTING APPELLANT'S ATTORNEY FOR COPIES OF ONLY THE SPECIFIED DOCUMENTS / LEGAL CORRESPONDENCE. AND THAT LACK OF COOPERATION ON THE APPELLANT'S PART, SHALL RESULT IN CANCELLATION OF THE APPEAL.

THE APPELLANT AT THIS TIME WOULD LIKE TO NOTIFY THE CHIEF APPEALS OFFICER / N. GRANNIS, THAT:

1) THE APPELLANT MUST EMPHASIZE THAT ALL LEGAL NOTES, DOCUMENTS, MATERIAL, AND CORRESPONDENCE IS OF THE NATURE OF (PRO PER) (PRO SE), AND NOT THAT OF AN ATTORNEY AS WAS STATED AT THE DIRECTOR'S LEVEL.

THE APPELLANT CONTENTS HE CAN CO-OPERATE WITH THE INMATE APPEALS BRANCH BY GIVING APPROXIMATE DATES, WATCH / SHIFT, AND A DESCRIPTION SAID PARTIES IN THE HOPES THAT THE NOTES, DOCUMENTS, MATERIAL, AND CORRESPONDENCE CAN BE RETURNED TO APPELLANT, SO THAT APPELLANT MAY ADDRESS THE COURTS IN A TIMELY MANNER.

CONT

- ③ THE APPELLANT AT THIS TIME IS REQUESTING THE NAMES OF JOHN DOE # 3, 4, AND 5.
 - ④ THE APPELLANT IS ALSO REQUESTING A COPY OF THE (MINOR AND/OR SERIOUS) INCIDENT REPORT THAT WAS FILLED ON OR ABOUT DEC, 1, 2, OR 3, OF 2006
 - ⑤ ON DEC, 1, 2, OR 3, OF 2006, THE APPELLANT WAS HOUSED IN CELL # 4262, CMC-ADMINISTRATIVE SEGREGATION UNIT (ASU)
 - ⑥ JOHN DOE #3, IS A CORRECTIONAL OFFICER, WHO WAS ON (THIRD WATCH) HIS RACE IS (CAUCASIAN), APPROXIMATELY 5'7" TO 5'8" IN HEIGHT, HE SERVED DINNER ON OR ABOUT SAID DATES.
 - ⑦ JOHN DOE #4, IS A CORRECTIONAL OFFICER, WHO WAS ON (THIRD WATCH) HIS RACE IS (CAUCASIAN), APPROXIMATELY 5'7" TO 5'8" IN HEIGHT, HE ALSO SERVED DINNER WITH JOHN DOE #3. ON OR ABOUT SAID DATES.
 - ⑧ JOHN DOE #5 IS A CORRECTIONAL SERGEANT, WHO WAS ON (THIRD WATCH) HIS RACE IS (CAUCASIAN), APPROXIMATELY 5'8" TO 5'9" IN HEIGHT.
 - ⑨ INCIDENT AND COMPLAINT FORM WAS FILLED OUT AND GIVEN TO JOHN DOE #5, AS TO THE ALLEGATIONS AGAINST JOHN DOE #3 AND #4.
- THE APPELLANT STATES THE FORGOING TO BE TRUE,

DATED: Sept-17-2007 Eibert J. Martin T-28520

EXHIBIT Y

CALIFORNIA

DEPARTMENT OF CORRECTIONS

**REASONABLE MODIFICATION OR
ACCOMMODATION REQUEST**

CDC 1824 (1/95)

INSTITUTION/PAROLE REGION:

CCI - 1

LOG NUMBER:

CATEGORY:

18. ADA

Medical

NOTE: THIS FORM IS TO BE USED ONLY BY INMATES/PAROLEES WITH DISABILITIES

In processing this request, it will be verified that the inmate/parolee has a disability which is covered under the Americans With Disabilities Act.

INMATE/PAROLEE'S NAME (PRINT)

CDC NUMBER

ASSIGNMENT

HOURS/WATCH

HOUSING

ELBERT THOMAS MARTIN T-28520 MEC-V.002 0740-1140 VWL-43-L

In accordance with the provisions of the Americans With Disabilities Act (ADA), no qualified individuals with a disability shall, on the basis of disability, be excluded from participation in, or be denied the benefits of the services, activities, or programs of a public entity, or be subjected to discrimination.

You may use this form to request specific reasonable modification or accommodation which, if granted, would enable you to participate in a service, activity or program offered by the Department/institution/facility, for which you are otherwise qualified/eligible to participate.

Submit this completed form to the Institution or facility's Appeals Coordinator's Office. A decision will be rendered within 15 working days of receipt at the Appeals Coordinator's Office and the completed form will be returned to you.

If you do not agree with the decision on this form, you may pursue further review. The decision rendered on this form constitutes a decision at the FIRST LEVEL of review.

To proceed to SECOND LEVEL, attach this form to an Inmate/Parolee Appeal Form (CDC 602) and complete section "F" of the appeal form.

Submit the appeal with attachment to the Appeals Coordinator's Office within 15 days of your receipt of the decision rendered on this request form.

If you are not satisfied with the SECOND LEVEL review decision, you may request THIRD LEVEL review as instructed on the CDC 602.

MODIFICATION OR ACCOMMODATION REQUESTED

DESCRIPTION OF DISABILITY:

CHRONIC BACK AND SPASMS PAIN, LEG PAIN,
INTENSE PAIN IN SECOND TOE ON LEFT

WHAT VERIFICATION DO YOU HAVE OF YOUR DISABILITY?

(BACK SURGERY) WAS DONE ON (12-13-06)
SIERRA VISTA Hosp.

DESCRIBE THE PROBLEM:

(WAS TAKEN OFF OF (GENERIC - GABAPENTIN)
(BRAND - NEURONTIN) 800mg PILL, ALSO TO THIS DAY
HAVE NOT HAD A FOLLOW-UP BY DOCTOR THAT
DID THE SURGERY, ALSO ONE CMO OVERRIDE
ANOTHER, WHO HAD ME ON MEDS TILL 7-18-07,
ATTACH EXHIBIT - A

WHAT SPECIFIC MODIFICATION OR ACCOMMODATION IS REQUESTED?

TO CONTINUE ON GABAPENTIN - 800mg
UNTIL I HAVE SURGERY AGAIN

Elbert L. Martin

INMATE/PAROLEE'S SIGNATURE

DATE SIGNED

3/20/2007

2007 APR 27 PM 5:22
2007 APR 23 PM 3:44
2007 APR 6 PM 2:33
DEPT. OF CORRECTIONS
APPEALS OFFICE
TEHACHA

*** PATIENT PROFILE ***

Includes Current Prescriptions as of 01/31/2007

 T-28520 MARTIN, ELBERT CURRENT UNIT: A11-1156X
 ALLERGIES: DOB: / / HT: ft in WT: 0
 =====

START	Rx/Qty	DRUG	PHYSICIAN	STOP
12/19/2006	339065	ALBUTEROL INHALER 17GM	BOLLAY, MD	03/19/2007
GS	1	INHALE 2 PUFFS 4 TIMES A DAY IF NEEDED (SHAKE WELL)	A11-1156X	
01/17/2007	339062	HYDROCHLOROTHIAZIDE 25MG	BOLLAY, MD	03/18/2007
GS	15	TAKE 1 TABLET DAILY IN THE MORNING.	A11-1156X	
01/17/2007	340022	ATORVASTATIN 10MG TAB	GALLAGHER	07/18/2007
JB	15	TAKE 1 TABLET DAILY	A11-1156X	
01/17/2007	340024	AMLODIPINE 5MG TAB	GALLAGHER	07/17/2007
JB	30	TAKE 2 TABLETS DAILY	A11-1156X	
01/19/2007	340023	ENALAPRIL 10MG UD	GALLAGHER	07/18/2007
JB	60	TAKE 2 TABLETS TWICE A DAY.	A11-1156X	
01/30/2007	342799	GABAPENTIN 800MG *NFA*	GALLAGHER	07/18/2007
SW	45	TAKE 1 TABLET 3 TIMES A DAY	A11-1156X	

↑
 for Back, after Surgery

2007 MAR 27 PM 5:22
 CCL - TERAUCHI
 APPEAL OFFICE

EXHIBIT - ~~R~~

State of California

CDC FORM 695

Screening For:

CDC 602 Inmate/Parolee Appeals

CDC 1824 Reasonable Modification or Accommodation Request

RE: Screening at the INFORMAL Level

March 27, 2007

MARTIN, T28520

MIVWL 000000043L

Log Number: CCI-0-

(Note: Log numbers are not assigned to screen out appeals, or informal level appeals)

The enclosed documents are being returned to you for the following reasons:

Your appeal issue and reasonable accommodation request must be filed on a CDC Form 1824. Please resubmit on a CDC Form 1824, Reasonable Modification or Accommodation Request.



Appeals Coordinator

California Correctional Institution

CCI - TEHACHA PI
APPEALS OFFICE
2007 APR - 3 PM 3:44

CCI - TEHACHA PI
APPEALS OFFICE
2007 APR - 6 PM 2:43

NOTE: Failure to follow instruction(s) will be viewed as non-cooperation and your appeal will be automatically dismissed pursuant to CCR 3084.4(d). This screening decision may not be appealed. If you believe this screen out is in error, please return this form to the Appeals Coordinator with an explanation of why you believe it to be in error, and supporting documents. You have only 15 days to comply with the above directives.

PERMANENT APPEAL ATTACHMENT - DO NOT REMOVE

3-30-2007

(3)

TO: APPEALS COORDINATOR- MRS K. SAMPSON

SUBJECT: CDC1824 MEDICAL

RE: SCREENING AT THE INFORMAL LEVEL DATED: MARCH 27, 2007

IN YOUR STATE OF CALIFORNIA CDC FORM 695, SCREENING FOR
CDC 602 INMATE; PAROLEE APPEALS AND CDC 1824 REASONABLE MODIFICATION
OR ACCOMMODATION REQUEST. YOU ASK THE INMATE TO RESUBMIT ON A CDC FORM
1824, REASONABLE MODIFICATION OR ACCOMMODATION REQUEST.

(IT MAY BE A SLIGHT OVERSIGHT ON YOUR PART)

BUT! THE YELLOW FORM THAT IS ATTACHED IS A CDC 1824 REASONABLE MODIFICATION
OR ACCOMMODATION REQUEST. AT THIS TIME I AM RESUBMITTING THIS CDC 1824 FORM.

NOTE: WITH THIS MIS-UNDERSTANDING OF CDC FORMS, THE ISSUE OF RESPONSE
IS NOW 10-days BEHIND. THANK YOU FOR YOUR TIME IN THIS MATTER.

CC-TEHACHAPI
APPEALS OFFICE
2007 APR -3 PM 3:44

cc;APPEALS COORDINATOR CALIFORNIA CORRECTIONAL INSTITUTION - K.SAMPSON

cc;UNITED STATES ATTORNEY GENERAL

DATED;MARCH-30-2007

ELBERT THOMAS MARTIN t-28520

Elbert T. Martin

CC-TEHACHAPI
APPEALS OFFICE
2007 APR -6 PM 2:33

State of California

CDC FORM 695

Screening For:

CDC 602 Inmate/Parolee Appeals

CDC 1824 Reasonable Modification or Accommodation Request

RE: Screening at the INFORMAL Level

April 3, 2007

MARTIN, T28520

MIVWL 000000043L

Log Number: CCI-0-

(Note: Log numbers are not assigned to screen out appeals, or informal level appeals)

The enclosed documents are being returned to you for the following reasons:

Your appeal issue or reasonable accommodation requested do not meet the criteria to be filed on a CDC Form 1824. Please resubmit on a CDC Form 602, Inmate/Parolee Appeal Form.

You are correct, the CDC 695 dated 3-27-07 is in error. Your request for a specific pain medication for pain management is not a request for a reasonable accommodation or modification and must be filed on a CDC 602.



Appeals Coordinator

California Correctional Institution

NOTE: Failure to follow instruction(s) will be viewed as non-cooperation and your appeal will be automatically dismissed pursuant to CCR 3084.4(d). This screening decision may not be appealed. If you believe this screen out is in error, please return this form to the Appeals Coordinator with an explanation of why you believe it to be in error, and supporting documents. You have only 15 days to comply with the above directives.

CCI - TEHACHA PI
APPEALS OFFICE
2007 APR -6 PM 4:33

PERMANENT APPEAL ATTACHMENT – DO NOT REMOVE

**INMATE/PAROLEE
APPEAL FORM**
 CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

 1. CCI-0
 2. _____

 1. 07-1106
 2. _____

Medical
Medication

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
<u>ELBERT MARTIN</u>	<u>T-28520</u>	<u>MEL-V.002 VOC.AUT0</u>	<u>VWL-43-L</u>

A. Describe Problem: I WAS TAKEN OFF PAIN MEDICATION (GABAPENTIN - 800mg)
By CMD, AT CCI-1, I AM HAVING CHRONIC BACK PAIN, AND
SPASMS. STILL HAVING PAIN FROM (BACK SURGERY) DONE ON
12-13-06.

If you need more space, attach one additional sheet.

B. Action Requested: TO BE ALLOWED TO CONTINUE TAKING (GABAPENTIN -
800 mg) UNTIL 07-18-07 (SEE EXHIBIT-A); (PATIENT PROFILE SHEET).

Inmate/Parolee Signature: Elbert J. Martin

Date Submitted: 04/05/07

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

APR 24 2007

CCI MEDICAL APPEALS

Staff Signature: _____

Date Returned to Inmate: _____

D. FORMAL LEVEL

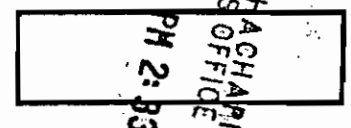
If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: _____

Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number



INMATE APPEAL ASSIGNMENT NOTICE

To: INMATE MARTIN, T28520

Date: April 20, 2007

Current Housing: ~~MPWL 000000043L~~ DH112

From: INMATE APPEALS OFFICE

Re: APPEAL LOG NUMBER: CCI-0-07-01106

ASSIGNED STAFF REVIEWER: MED APPEALS COR

APPEAL ISSUE: MEDICAL

DUE DATE: 05/18/2007

Inmate MARTIN, this acts as a notice to you that your appeal has been sent to the above staff for FIRST level response. If you have any questions, contact the above staff member. If dissatisfied, you have 15 days from the receipt of the response to forward your appeal for SECOND level review.

K. Sampson
Appeals Coordinator
California Correctional Institution

**INMATE/PAROLEE
APPEAL FORM**

CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

1. _____

1. _____

2. _____

2. _____

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME ELBERT THOMAS MARTIN	NUMBER T-28520	ASSIGNMENT .002 VOC AUTO	UNIT/ROOM NUMBER DH-14
------------------------------	-------------------	-----------------------------	---------------------------

A. Describe Problem: SHOW DOCTOR ON MAY 8-2007 , ISSUE 602 APPEAL LOG NO.CCI-O-07-01106
FOR INFORMAL LEVEL SCREENING DATED APRIL .24 2007 SEE ATTACHED FORM, AT THIS TIME
INMATE HAS NOT REC.D 602 APPEAL FORM BACK, SO THAT INMATE MAY SUBMITT AT FORMAL LEVEL.
KEEPING IN ACCORDANCE WITH (15 CCR § 3084.6 (b)(1).
SEE ATTACHED EXHIBITS-CDC FORM 695 (SCREENING) INMATE PRIORITY PASS, AND 602
INMATE /PAROLEE APPEAL FORM ,SUBMITTED.

If you need more space, attach one additional sheet.

B. Action Requested: PLEASE RETURN 602 THAT WAS SUBMITTED ON 4-05-2007, (SEE ATTACHED FORM.)

Inmate/Parolee Signature: _____ Date Submitted: MAY -28-2007

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

Staff Signature: _____ Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: _____

Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed
Board of Control form BC-1E, Inmate Claim

CDC Appeal Number:



Memorandum

Date: June 19, 2007

To: Inmate: Elbert, Martin

CDCR #: T28520

Subject: **APPEAL LOG # CCI-07-01106**
FIRST LEVEL RESPONSE-MEDICAL DEPARTMENT

DESCRIPTION OF PROBLEM: Refer to the original CDC 602.

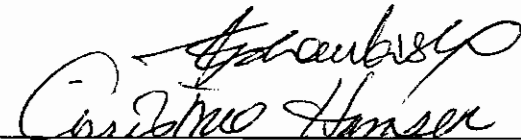
ACTION REQUESTED: Refer to the original CDC 602. The issue regarding having pain medication reinstated is to be addressed in this appeal.

☐ GRANTED ☒ P. GRANTED ☐ DENIED ☐ OTHER:

E. REVIEWER'S ACTION

Interviewed by: Dr. Garikaparathi, Staff Physician on May 08, 2007. Based upon the examination, and policies and procedures, the following decisions were rendered. It was found that the patient was status post back surgery in December 2006. The inmate was initially examined by Dr. Afra, Staff Physician, and was placed on a regimen of muscle relaxants and pain medications in the form of Hydrochlorothiazide 25 mg. and Gabapentin 800 mg. It is further noted that the patient needs a magnetic resonance imaging (MRI), and a post-surgical request for services to follow-up with a neurosurgeon depending on M.R.I. results. The inmate also needs a request for services to follow-up with an urologist. The physicians will determine what treatment is medically necessary.

Reference: Title 15 3350. Provision of Medical Care and Definitions. Title 15 3350.1. Medical Treatment/Service Exclusions. Title 15 3352. Medical Authorization Review (MAR) Committee. Utilization Management Committee (UMC). Title 15 3352.1. Health Care Review (HRC) Committee. Title 15 3354. Health Care Responsibilities and Limitations. Title 15 3358. Artificial Appliances. Title 15 3270. General Policy. Title 15 3271. Responsibility of employees.



**DR. GARIKAPARTHI, STAFF
PHYSICIAN**

California Correctional Institution

6-21-07

Date

Memorandum

Date: June 19, 2007

To: Inmate: Martin, Elbert

CDCR #: T28520

Subject: **APPEAL LOG # CCI-07-01106**
FIRST LEVEL RESPONSE-MEDICAL DEPARTMENT

DESCRIPTION OF PROBLEM: Refer to the original CDC 602.

ACTION REQUESTED: Refer to the original CDC 602. The issue regarding having pain medication reinstated is to be addressed in this appeal.

☐ GRANTED ☒ P. GRANTED ☐ DENIED ☐ OTHER:

E. REVIEWER'S ACTION

Interviewed by: Dr. Garikaparthi, Staff Physician on May 08, 2007. Based upon the examination, and policies and procedures, the following decisions were rendered. It was found that the patient was status post back surgery in December 2006. The inmate was initially examined by Dr. Afra, Staff Physician, and was placed on a regimen of muscle relaxants and pain medications in the form of Hydrochlorothiazide 25 mg. and Gabapentin 800 mg. It is further noted that the patient needs a magnetic resonance imaging (MRI), and a post-surgical request for services to follow-up with a neurosurgeon depending on M.R.I. results. The inmate also needs a request for services to follow-up with an urologist. The physicians will determine what treatment is medically necessary.

Reference: Title 15 3350. Provision of Medical Care and Definitions. Title 15 3350.1. Medical Treatment/Service Exclusions. Title 15 3352. Medical Authorization Review (MAR) Committee. Utilization Management Committee (UMC). Title 15 3352.1. Health Care Review (HRC) Committee. Title 15 3354. Health Care Responsibilities and Limitations. Title 15 3358. Artificial Appliances. Title 15 3270. General Policy. Title 15 3271. Responsibility of employees.

for 
DR. GARIKAPARTHI, STAFF
PHYSICIAN
California Correctional Institution

07-23-07
Date

EXHIBIT Z

KERN RADIOLOGY MEDICAL GROUP, INC.

2301 Bahamas Drive
Bakersfield, CA 93309
(661) 326-9600

CCI TEHACHAPI STATE PRISON
FAX# 823-5018 OR 823-3328

PATIENT: MARTIN, ELBERT
HOUSING: I

DOB: CDC# T28520

INTERPRETATION OF OUTSIDE FILMS: LUMBAR SPINE, 3 VIEWS: 02/23/2007

There is a first degree spondylolisthesis of L5 on S1 with disc space narrowing. Vertebral bodies are preserved in stature. The remainder of the disc spaces are normal. Posterior elements are grossly intact. Sacroiliac joints are normal.

IMPRESSION:

First degree spondylosis of L5 on S1 with disc space narrowing at L5-S1. No other abnormalities.

Howard E. Leventhal, M.D.

D: 03/05/2007 T: 03/06/2007/lmj

Referring Physician: YIN, M.D.

01-4/13/17

DEPARTMENT OF CORRECTIONS
REQUEST FOR X-RAY

STATE OF CALIFORNIA

C.C. - level I

NAME	NUMBER	HOUSING	SEX	HEIGHT	WEIGHT
MARTIN, ELBERT	T28520	MIVWL	LEVEL		

CHECK APPROPRIATE BOX

ROUTINE ☐ STAT ☐

VIEWS REQUIRED L-Spine

TECH 3 FILMS 3

CC

PHYSICIAN Jim M. Yin DATE 2/23/07



DEPARTMENT OF VETERANS AFFAIRS

Los Angeles Regional Office
11000 Wilshire Boulevard
Los Angeles CA 90024

August 5, 2002

Elbert T. Martin,
2625 Hudspeth St
Inglewood CA 90303-2434

In Reply Refer To: 344/215
Claim Number: 552-02-1768
SSN:

To Whom It May Concern:

The records of the Department of Veterans Affairs show that Elbert T. Martin served in the Armed Forces of the United States as follows:

BRANCH OF SERVICE:	AIR FORCE
ENTERED ON ACTIVE DUTY:	06-23-1975
RELEASED FROM ACTIVE DUTY:	07-24-1978
CHARACTER OF DISCHARGE (Certified to VA by the military or shown on official military documents):	UNDER HONORABLE CONDITION
SERVICE SERIAL NO:	
RANK AND ORGANIZATION:	E-2
DATE OF BIRTH:	05-07-1955

Sincerely yours,

A handwritten signature in cursive script that reads "Larry Gervase".

LARRY GERVASE
Veterans Service Center Manager

Enclosure:

cc:

FILED

NOV 21 2007

Plaintiff's Name: Elbert Thomas MartinCDC No: T-28520Address: California Correctional InstitutionP.O. Box 107, Tehachapi, CA 93581UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIACLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY CS
DEPUTY CLERKElbert Thomas Martin

Plaintiff,

vs.

John Doe #1, Med. Tech.
Asst., et. al.,

Defendant(s).

APPLICATION TO PROCEED
IN FORMA PAUPERIS
BY A PRISONER

CASE NUMBER:

1:07-cv-01661-Awl-umw-R

I, Elbert Thomas Martin, declare that I am the plaintiff in the above-entitled proceeding; that, in support of my request to proceed without prepayment of fees under 28 U.S.C. section 1915, I declare that I am unable to pay the fees for these proceedings or give security therefor and that I am entitled to the relief sought in the complaint.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated? ☒ Yes ☐ No (If "no" DO NOT USE THIS FORM)

If "yes" state the place of your incarceration. California Correctional Institution

Have the institution fill out the Certificate portion of this application and attach a certified copy of your prison trust account statement showing transactions for the past six months.

2. Are you currently employed (includes prison employment)? ☐ Yes ☒ No

a. If the answer is "yes" state the amount of your pay. _____

b. If the answer is "no" state the date of your last employment, the amount of your take-home salary or wages and pay period, and the name and address of your last employer.

3. Have you received any money from the following sources over the last twelve months?

a. Business, profession, or other self-employment: ☐ Yes ☒ No

b. Rent payments, interest or dividends: ☐ Yes ☒ No

c. Pensions, annuities or life insurance payments: ☐ Yes ☒ No

d. Disability or workers compensation payments: ☐ Yes ☒ No

e.. Gifts or inheritances: ☐ Yes ☒ Nof. , Any other sources: ☐ Yes ☒ No

If the answer to any of the above is "yes," describe by that item each source of money. Also state the amount received and what you expect you will continue to receive. Please attach an additional sheet if necessary.

4. Do you have cash (includes balance of checking or savings accounts)? ☐ Yes ☒ No

If "yes" state the total amount: _____

5. Do you own any real estate, stocks, bonds, securities, other financial instruments, automobiles or other valuable property? ☐ Yes ☒ No

If "yes" describe the property and state its value: _____

6. Do you have any other assets? ☐ Yes ☒ No

If "yes," list the asset(s) and state the value of each asset listed:

7. List all persons dependent on you for support, stating your relationship to each person listed and how much you contribute to their support.

I hereby authorize the agency having custody of me to collect from my trust account and forward to the Clerk of the United States District Court payments in accordance with 28 U.S.C. section 1915(b)(2).

11-15-2007
DATE

Elliott J. Martin
SIGNATURE OF APPLICANT

CERTIFICATE

(To be completed by the institution of incarceration)

I certify that the applicant named herein has the sum of \$ 0 on account to his/her credit at ACT Tehachap (name of institution). I further certify that during the past six months, the applicant's average monthly balance was \$ 12.50. I further certify that during the past six months, the average of monthly deposits to the applicant's account was \$ 29.17.

(Please attach a certified copy of the applicant's trust account statement showing transactions for the past six months).

11/16/07
DATE

Bella V. Wade Acet Tech
SIGNATURE OF AUTHORIZED OFFICER

REPORT ID: TS3030 .701 REPORT DATE: 11/16/07 PAGE NO: 1

CALIFORNIA DEPARTMENT OF CORRECTIONS
CALIF CORRECTIONAL INSTITUTION
INMATE TRUST ACCOUNTING SYSTEM
INMATE TRUST ACCOUNT STATEMENT

FOR THE PERIOD: MAY 01, 2007 THRU NOV. 16, 2007

ACCOUNT NUMBER : T28520
ACCOUNT NAME : MARTIN, ELBERT THOMAS
PRIVILEGE GROUP: A
BED/CELL NUMBER: MIBH000000000032L
ACCOUNT TYPE: I

TRUST ACCOUNT ACTIVITY					
TRAN DATE	CODE	DESCRIPTION	COMMENT	CHECK NUM	DEPOSITS WITHDRAWALS BALANCE
05/01/2007		BEGINNING BALANCE			3.66
05/01	W512	LEGAL POSTAGE	5629LEGPOS		0.60
05/03	W516	LEGAL COPY CH	5684LEGCOPI		3.06
05/04	D340	EFT DEPOSIT	5690JJPAY	50.00	50.00
05/08	FC01	DRAW-FAC 1	1-1-5713		0.00
09/05	D340	EFT DEPOSIT	1505JJPAY	50.00	50.00
09/07	W512	LEGAL POSTAGE	1594LEGPOS		49.60
09/10	FC01	DRAW-FAC 1	1-1-1600		29.84
09/21	W536	COPY CHARGE	1984COPAY		24.84
09/21	W515	COPY CHARGE	1983COPIES		23.04
09/21	W515	COPY CHARGE	1983COPIES		22.44
09/21	W532	DAMAGES - PER	1982CLOTHE		0.00
09/25	D340	EFT DEPOSIT	2071JJPAY	75.00	75.00
10/03	W516	LEGAL COPY CH	2261LEGCOPI		71.40
10/03	W516	LEGAL COPY CH	2261LEGCOPI		67.80
10/09	FC01	DRAW-FAC 1	-1-1-2370		0.00

THE WITHIN INSTRUMENT IS A CORRECT
COPY OF THE TRUST ACCOUNT MAINTAINED
BY THIS OFFICE.

ATTEST: 11-16-07



CALIFORNIA DEPARTMENT OF CORRECTIONS

BY *[Signature]*
TRUST OFFICE

Act Tech

TRUST ACCOUNT SUMMARY

BEGINNING BALANCE	TOTAL DEPOSITS	TOTAL WITHDRAWALS	CURRENT BALANCE	HOLDS BALANCE	TRANSACTIONS TO BE POSTED
3.66	175.00	178.66	0.00	0.00	0.00

CURRENT
AVAILABLE
BALANCE
0.00

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Sacramento Clerk's Office
501 "I" Street , Suite 4-200
Sacramento, CA 95814
916-930-4000

Fresno Clerk's Office
2500 Tulare Street , Suite 1501
Fresno, CA 93721
559-499-5600

December 17, 2007

Case Number: 1:07-CV-01661-AWI-WMW

Case Title: ELBERT THOMAS MARTIN, vs. M ROCHE, ET AL.,

Dear Litigant,

You are hereby notified that the above case number has been assigned to your action. You are to include it on all correspondence (e.g., letters, filings, and inquiries) sent to the court. Failure to do so results in delayed processing of your documents.

All matters in this action shall be sent to the following address until further notice:

Office of the Clerk
United States District Court
Eastern District of California
2500 Tulare Street , Suite 1501
Fresno, CA 93721

For timely processing of your filings or correspondence, please comply with our Local Rules of Court, in particular:

Local Rule 5-133 (modified) You are not required to send this court an original plus one copy of all documents submitted for filing (e.g., pleadings, motions, correspondence, etc.). You are only required to send this court the original for filing. No extra copies are required. However, if you desire to receive a conformed copy for your records, you must send the original plus one (1) copy and a pre-addressed postage-paid envelope for us to return your copy to you.

Local Rules 30-250, 33-250, 34-250 and 36-250 Discovery requests or responses should not be submitted to the court unless they are relevant and necessary to support or oppose a motion at issue before the court.

Local Rule 5-135 Once the defendant(s) have served a responsive pleading, you are under an ongoing duty to serve them with copies of all documents you submitted to the court. A proof of service shall be attached to the original of any document lodged or filed with the court, showing the date, manner and place of service. A sample proof of service is attached.

Local Rule 7–130 (modified) Documents submitted to this court may be either typewritten or handwritten but must be legible, and writing shall be on one (1) side of the page only.

Local Rule 7–132 Every document submitted to the court must include your name, address and prisoner identification number in the upper left hand corner of the first page.

Local Rules 83–182 Each party appearing in propria persona is under a continuing duty to notify the Clerk and all other parties of any change of address by filing separate notice; absent such notice, service at prior address shall be fully effective. A sample Notice of Change of Address form is attached.

Other Provisions:

A complete copy of the Local Rules should be available in the prison library. We do not provide individual copies to litigants.

Request for Case Status The court will notify you as soon as any action is taken in your case. Due to the large number of civil actions pending before the court, **THE CLERK IS UNABLE TO RESPOND IN WRITING TO INDIVIDUAL INQUIRES REGARDING THE STATUS OF YOUR CASE.** As long as you keep the court apprised of your current address, you will receive all court decisions which might affect the status of your case.

Copy Work The Clerk's Office does not provide copies of documents to parties. Copies of documents may be obtained from the Attorney's Diversified Service (ADS) by writing to them at: 741 N. Fulton Street, Fresno CA 93728, or by phoning 800–842–2695. The court will provide copies of docket sheets at \$0.50 per page. Note: In Forma Pauperis status does not include the cost of copies.

Proposed Orders Parties are not required to submit a proposed order when filing a motion. If a proposed order is submitted, the court may disregard the order and prepare its own order.

As noted, the requirements set forth in Local Rule 5–135 and 7–130 have been modified in this letter. These modifications apply to civil rights and habeas cases filed in the Fresno Division of the Eastern District of California by prisoners proceeding pro se (without counsel).

Victoria C. Minor
Clerk of Court
United States District Court

by: /s/ J. Hellings

Deputy Clerk

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

v.

Case Number:

PROOF OF SERVICE

_____/

I hereby certify that on _____, I served a copy
of the attached _____,
by placing a copy in a postage paid envelope addressed to the person(s) hereinafter
listed, by depositing said envelope in the United States Mail at
_____:

**(List Name and Address of Each
Defendant or Attorney Served)**

I declare under penalty of perjury that the foregoing is true and correct.

(Signature of Person Completing Service)

Name: _____

I.D. #: _____

Address _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

(Plaintiff/Petitioner)

v.

Case Number:

(Defendant(s)/Respondent)

**NOTICE OF CHANGE
OF ADDRESS**

_____/

PLEASE TAKE NOTICE THAT (print name) _____

hereby submits a notice of change of address in the above – entitled case as follows:

OLD ADDRESS: _____

NEW ADDRESS: _____

DATED: _____

Signature of Plaintiff/Petitioner

**YOU MUST FILE AN ORIGINAL CHANGE OF ADDRESS
FORM IN EACH OF YOUR OPEN CASES**

**NOTICE OF AVAILABILITY OF A MAGISTRATE JUDGE
TO EXERCISE JURISDICTION AND APPEAL INSTRUCTIONS**

You are hereby notified in accordance with 28 U.S.C §636(c), F.R.Civ.P.73 and Local Rule 73–305, the United States Magistrate Judges sitting in Sacramento and Fresno are available to exercise the court's case dispositive jurisdiction and to conduct any or all case despositive proceedings in this action, including motions to dismiss, motions for summary judgment, a jury or nonjury trial, and entry of a final judgment. Exercise of this jurisdiction by a Magistrate Judge is however, permitted only if all parties voluntarily consent. You may, without adverse substantive consequences, withhold your consent, but this will prevent the court's case dispositive jurisdiction from being exercised by a Magistrate Judge.

Any appeal from a judgment entered by a Magistrate Judge is taken directly to the United States Court of Appeals for the Ninth Circuit or, where appropriate, for the Federal Circuit in the same manner as an appeal from any other judgment of a District Court.

Whether or not the parties consent to pursuant to 28 U.S.C. § 636(c) the assigned Magistrate Judge will hear all motions except those case dispositive motions set forth in 28 U.S.C. § 636(b)(1)(A).

A copy of the Form for "Consent to / Decline of Jurisdiction of United States Magistrate Judge" is attached hereto for pro per use and attorney information. This form is available in fillable .pdf format on the court's web site at www.caed.uscourts.gov for all attorney ECF filers. This form may be filed through CM/ECF or by pro se litigants at the appropriate Clerk's Office location.

Office of the Clerk
501 I Street, Room 4–200
Sacramento, CA 95814

Office of the Clerk
2500 Tulare Street , Suite 1501
Fresno, CA 93721

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ELBERT THOMAS MARTIN, _____
Plaintiff(s)/Petitioner(s),

vs.

CASE NO. 1:07-CV-01661-AWI-WMW

M ROCHE, ET AL., _____
Defendant(s)/Respondents(s).

IMPORTANT

**IF YOU CHOOSE TO CONSENT OR DECLINE TO CONSENT TO JURISDICTION OF
A UNITED STATES MAGISTRATE JUDGE, CHECK AND SIGN THE APPROPRIATE
SECTION OF THIS FORM AND RETURN IT TO THE CLERK'S OFFICE.**

☐ **CONSENT TO JURISDICTION OF
UNITED STATES MAGISTRATE JUDGE**

In accordance with the provisions of Title 28, U.S.C Sec. 636(c)(1), the undersigned hereby voluntarily consents to have a United States Magistrate Judge conduct all further proceedings in this case, including trial and entry of final judgment, with direct review by the Ninth Circuit Court of Appeals, in the event an appeal is filed.

Date: _____ Signature: _____

Print Name: _____
() Plaintiff/Petitioner () Defendant/Respondent
() Counsel for * _____

☐ **DECLINE OF JURISDICTION OF
UNITED STATES MAGISTRATE JUDGE**

Pursuant to Title 28, U.S.C. Sec 636(c)(2), the undersigned acknowledges the availability of a United States Magistrate Judge but hereby declines to consent.

Date: _____ Signature: _____

Print Name: _____
() Plaintiff/Petitioner () Defendant/Respondent
() Counsel for * _____

**If representing more than one party, counsel must indicate name of each party responding.*

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Sacramento Clerk's Office
501 "I" Street , Suite 4-200
Sacramento, CA 95814
916-930-4000

Fresno Clerk's Office
2500 Tulare Street , Suite 1501
Fresno, CA 93721
559-499-5600

December 17, 2007

Case Number: 1:07-CV-01661-AWI-WMW

Case Title: ELBERT THOMAS MARTIN, vs. M ROCHE, ET AL.,

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Proposed Orders Parties are not required to submit a proposed order when filing a motion. If a proposed order is submitted, the court may disregard the order and prepare its own order.

As noted, the requirements set forth in Local Rule 5–135 and 7–130 have been modified in this letter. These modifications apply to civil rights and habeas cases filed in the Fresno Division of the Eastern District of California by prisoners proceeding pro se (without counsel).

Victoria C. Minor
Clerk of Court
United States District Court

by: /s/ J. Hellings

Deputy Clerk

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

v.

Case Number:

PROOF OF SERVICE

_____/

I hereby certify that on _____, I served a copy
of the attached _____,
by placing a copy in a postage paid envelope addressed to the person(s) hereinafter
listed, by depositing said envelope in the United States Mail at
_____:

**(List Name and Address of Each
Defendant or Attorney Served)**

I declare under penalty of perjury that the foregoing is true and correct.

(Signature of Person Completing Service)

Name: _____

I.D. #: _____

Address _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

(Plaintiff/Petitioner)

v.

Case Number:

(Defendant(s)/Respondent)

**NOTICE OF CHANGE
OF ADDRESS**

_____/

PLEASE TAKE NOTICE THAT (print name) _____

hereby submits a notice of change of address in the above – entitled case as follows:

OLD ADDRESS: _____

NEW ADDRESS: _____

DATED: _____

Signature of Plaintiff/Petitioner

**YOU MUST FILE AN ORIGINAL CHANGE OF ADDRESS
FORM IN EACH OF YOUR OPEN CASES**

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TO EXERCISE JURISDICTION AND APPEAL INSTRUCTIONS**

You are hereby notified in accordance with 28 U.S.C §636(c), F.R.Civ.P.73 and Local Rule 73–305, the United States Magistrate Judges sitting in Sacramento and Fresno are available to exercise the court's case dispositive jurisdiction and to conduct any or all case despositive proceedings in this action, including motions to dismiss, motions for summary judgment, a jury or nonjury trial, and entry of a final judgment. Exercise of this jurisdiction by a Magistrate Judge is however, permitted only if all parties voluntarily consent. You may, without adverse substantive consequences, withhold your consent, but this will prevent the court's case dispositive jurisdiction from being exercised by a Magistrate Judge.

Any appeal from a judgment entered by a Magistrate Judge is taken directly to the United States Court of Appeals for the Ninth Circuit or, where appropriate, for the Federal Circuit in the same manner as an appeal from any other judgment of a District Court.

Whether or not the parties consent to pursuant to 28 U.S.C. § 636(c) the assigned Magistrate Judge will hear all motions except those case dispositive motions set forth in 28 U.S.C. § 636(b)(1)(A).

A copy of the Form for "Consent to / Decline of Jurisdiction of United States Magistrate Judge" is attached hereto for pro per use and attorney information. This form is available in fillable .pdf format on the court's web site at www.caed.uscourts.gov for all attorney ECF filers. This form may be filed through CM/ECF or by pro se litigants at the appropriate Clerk's Office location.

Office of the Clerk
501 I Street, Room 4–200
Sacramento, CA 95814

Office of the Clerk
2500 Tulare Street , Suite 1501
Fresno, CA 93721

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ELBERT THOMAS MARTIN, _____
Plaintiff(s)/Petitioner(s),

vs.

CASE NO. **1:07-CV-01661-AWI-WMW** _____

M ROCHE, ET AL., _____
Defendant(s)/Respondents(s).

IMPORTANT

**IF YOU CHOOSE TO CONSENT OR DECLINE TO CONSENT TO JURISDICTION OF
A UNITED STATES MAGISTRATE JUDGE, CHECK AND SIGN THE APPROPRIATE
SECTION OF THIS FORM AND RETURN IT TO THE CLERK'S OFFICE.**

☐ **CONSENT TO JURISDICTION OF
UNITED STATES MAGISTRATE JUDGE**

In accordance with the provisions of Title 28, U.S.C Sec. 636(c)(1), the undersigned hereby voluntarily consents to have a United States Magistrate Judge conduct all further proceedings in this case, including trial and entry of final judgment, with direct review by the Ninth Circuit Court of Appeals, in the event an appeal is filed.

Date: _____ Signature: _____

Print Name: _____
() Plaintiff/Petitioner () Defendant/Respondent
() Counsel for * _____

☐ **DECLINE OF JURISDICTION OF
UNITED STATES MAGISTRATE JUDGE**

Pursuant to Title 28, U.S.C. Sec 636(c)(2), the undersigned acknowledges the availability of a United States Magistrate Judge but hereby declines to consent.

Date: _____ Signature: _____

Print Name: _____
() Plaintiff/Petitioner () Defendant/Respondent
() Counsel for * _____

**If representing more than one party, counsel must indicate name of each party responding.*

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ELBERT THOMAS MARTIN,

1:07-cv-001661-AWI-WMW (PC)

Plaintiff,

ORDER GRANTING APPLICATION TO
PROCEED IN FORMA PAUPERIS

vs.

M. ROCHE, et al.,

(DOCUMENT #2)

Defendants.

Plaintiff is a prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983 and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This proceeding was referred to this court by Local Rule 72-302 pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff has submitted a declaration that makes the showing required by § 1915(a). Accordingly, the request to proceed in forma pauperis will be granted. 28 U.S.C. § 1915(a).

Pursuant to 28 U.S.C. § 1915(b)(1), enacted April 26, 1996, plaintiff is required to pay the statutory filing fee of \$350.00 for this action.¹ Plaintiff has been without funds for six months and is currently without funds. Accordingly, the court will not assess an initial partial filing fee. 28 U.S.C. § 1915(b)(1). Plaintiff is obligated to make monthly payments of 20 percent of the preceding month's income credited to plaintiff's prison trust account. These payments shall be collected and forwarded by

¹ The statutory filing fee for all civil actions except applications for writs of habeas corpus is \$350.00. See 28 U.S.C. § 1914(a).

1 the appropriate agency to the Clerk of the Court each time the amount in plaintiff's account exceeds
2 \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

3 In accordance with the above, IT IS HEREBY ORDERED that:

4 1. Plaintiff's request for leave to proceed in forma pauperis is granted.

5 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. The fee
6 shall be collected and paid in accordance with this court's order to the Director of the California
7 Department of Corrections filed concurrently herewith.

8 IT IS SO ORDERED.

9 **Dated: December 18, 2007**

/s/ William M. Wunderlich
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ELBERT THOMAS MARTIN,

1:07-cv-01661-AWI-WMW (PC)

Plaintiff,

v.

ORDER DIRECTING PAYMENT
OF INMATE FILING FEE

M. ROCHE, et al.,

Defendants.

_____ /

To: The Director of the California Department of Corrections, 1515 S Street, Sacramento, California
95814:

Plaintiff, a prisoner proceeding pro se and in forma pauperis, is obligated to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. § 1915(b)(1). Plaintiff is obligated to make monthly payments in the amount of twenty percent of the preceding month's income credited to plaintiff's trust account. The California Department of Corrections is required to send to the Clerk of the Court payments from plaintiff's account each time the amount in the account exceeds \$10.00, until the statutory filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

In accordance with the above and good cause appearing therefore, IT IS HEREBY ORDERED that:

1. The Director of the California Department of Corrections or his designee shall collect

1 payments from plaintiff's prison trust account in an amount equal to twenty per cent (20%) of the
2 preceding month's income credited to the prisoner's trust account and shall forward those payments to
3 the Clerk of the Court each time the amount in the account exceeds \$10.00, in accordance with 28
4 U.S.C. § 1915(b)(2), until a total of \$350.00 has been collected and forwarded to the Clerk of the Court.
5 The payments shall be clearly identified by the name and number assigned to this action.

6 2. The Clerk of the Court is directed to serve a copy of this order and a copy of plaintiff's
7 in forma pauperis affidavit on the Director of the California Department of Corrections, 1515 S Street,
8 Sacramento, California 95814.

9 3. The Clerk of the Court is directed to serve a copy of this order on the Financial
10 Department, U.S. District Court, Eastern District of California, Fresno Division.

11
12 IT IS SO ORDERED.

13 **Dated: December 18, 2007**

/s/ William M. Wunderlich
UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ELBERT THOMAS MARTIN,

1:07-cv-01661-AWI-WMW (PC)

Plaintiff,

FIRST INFORMATIONAL ORDER

vs.

M. ROCHE, et al.,

Defendants.

_____ /

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. In litigating this action, the parties must comply with the Federal Rules of Civil Procedure (Fed. R. Civ. P.) and the Local Rules of the United States District Court, Eastern District of California (Local Rules). This order highlights specific rules of which the parties should take particular note. FAILURE TO COMPLY WITH THE FEDERAL RULES, LOCAL RULES, OR A COURT ORDER, INCLUDING THIS ORDER, WILL BE GROUNDS FOR APPROPRIATE SANCTIONS, UP TO AND INCLUDING DISMISSAL OF THIS ACTION.

Local Rule 11-110; Fed. R. Civ. P. 41(b).

1. Documents intended to be filed with the court by pro se litigants must be mailed to the Clerk of the Court. Local Rule 5-133(d)(1). All documents mailed improperly to a judge's chambers

1 will be stricken.¹ A document requesting a court order must be styled as a motion, not a letter. Fed.
2 R. Civ. P. 7.

3 2. Each document submitted for filing must include the original signature of the filing party
4 or parties. Local Rule 7-131; Fed. R. Civ. P. 11(a). All documents submitted without the required
5 signature(s) will be stricken. Each separate document must be bound separately at the top left
6 corner. Local Rule 7-130(b). If a document is bound behind another document, it will not be filed
7 and will not enter the court docket.

8 3. You are not required to send this court copies of your documents submitted for filing.
9 Local Rule 5-133(d)(2). If the filing party wishes the court to return a file-stamped copy, he or she
10 must include one copy for that purpose AND a pre-addressed postage paid envelope. The court
11 cannot provide copy or mailing service for a party, even for an indigent plaintiff proceeding in forma
12 pauperis. Copies of documents from the court file may be obtained at the cost of fifty cents per page.

13 4. After defendants have appeared in an action by filing a response to the complaint (i.e., an
14 answer, a motion to dismiss, or a motion for summary judgment), all documents filed with the court
15 must include a certificate of service stating that a copy of the document was served on the opposing
16 party. Fed. R. Civ. P. 5; Local Rule 5-135. A document submitted without the required proof of
17 service will be stricken. Where a party is represented, service on the party's attorney of record
18 constitutes effective service.

19 5. All filings must bear the file number assigned to the action, followed by the initials of the
20 District Court Judge and the Magistrate Judge to whom the case is assigned and the letters "PC."
21 Where plaintiff simultaneously pursues more than one action, he or she must file separate original
22 documents and the appropriate number of copies in each action to which the document pertains.
23 Documents submitted listing more than one case number in the caption will be stricken.

24 6. The court cannot serve as a repository for the parties' evidence (i.e., prison or medical
25 records, witness affidavits, etc.). The parties may not file evidence with the court until the course of
26 litigation brings the evidence into question (for example, on a motion for summary judgment, at trial,

27
28 ¹ When a document is stricken, it becomes a nullity and is not considered by the court for any purpose.

1 or when requested by the court). Evidence improperly submitted to the court will be stricken.

2 7. The Eastern District of California converted to an electronic filing, service, and storage
3 system, effective January 3, 2005. Pro se litigants are exempt from the electronic filing requirement
4 and must submit all documents to the court in paper. Local Rule 5-133(b)(2). Paper documents
5 submitted by pro se litigants for filing will be scanned into the electronic court file by the Clerk's
6 Office. After being scanned into the electronic court file, the paper documents will be retained in the
7 Clerk's Office for a limited period of time and then discarded. Local Rule 39-138(d). For this
8 reason, pro se litigants are cautioned not to send original exhibits to the court. When it is appropriate
9 for pro se litigants to submit exhibits to the court (see paragraph 6), the litigants shall retain their
10 original exhibits and send photocopies to the court.

11 8. After an answer is filed, the court will issue an order opening discovery, and setting the
12 deadlines for completing discovery, amending the pleadings, and filing pre-trial dispositive motions.
13 No discovery may be conducted without court permission until an answer is filed and the court
14 issues the discovery order. Discovery propounded on a party is self-executing, and must be served
15 directly on the party from whom discovery is sought; parties should not file copies of their discovery
16 with the court. Local Rules 33-250, 34-250, 36-250. Discovery documents inappropriately
17 submitted to the court will be stricken. Where the response to discovery is unsatisfactory, the party
18 seeking discovery may file a motion to compel discovery, including a copy of the discovery
19 propounded and the response thereto. Fed. R. Civ. P. 37. A motion to compel must be accompanied
20 by "a certification that the movant has in good faith conferred or attempted to confer with the party
21 not making the disclosure in an effort to secure the disclosure without court action." Fed. R. Civ. P.
22 37(a)(2)(A). A discovery motion that does not comply with all applicable rules will be stricken and
23 may result in imposition of sanctions.

24 9. Because plaintiff is incarcerated and proceeds pro se, all pre-trial motions will be
25 submitted without a hearing. Local Rule 78-230(m). The parties are referred to Local Rule 78-
26 230(m) for the briefing schedule on motions.

27 10. All court deadlines will be strictly enforced. Requests for time extensions must state the
28

1 reason the extension is needed and must be filed with the court before the deadline in question.

2 Local Rule 6-144.

3 11. A pro se plaintiff has an affirmative duty to keep the court and opposing parties apprised
4 of his or her address. Local Rule 83-182(f). If a plaintiff moves and fails to file a notice of change
5 of address, service of court orders at plaintiff's prior address shall constitute effective notice. Id. If
6 mail directed to plaintiff is returned by the U.S. Postal Service as undeliverable, the court will not
7 attempt to re-mail it. If the address is not updated within sixty days of the mail being returned, the
8 action will be dismissed for failure to prosecute. Local Rule 83-183(b).

9 12. The court is required to screen complaints brought by prisoners seeking relief against a
10 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The
11 court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally
12 "frivolous or malicious," that fail to state a claim upon which relief may be granted, or that seek
13 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).
14 The court will direct the United States Marshal to serve plaintiff's complaint only after the court has
15 screened the complaint and determined that it contains cognizable claims for relief against the named
16 defendants. The court has a large number of prisoner civil rights cases pending before it and will
17 screen plaintiff's complaint in due course.

18 IT IS SO ORDERED.

19 **Dated: December 18, 2007**

/s/ William M. Wunderlich
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FILED

ELBERT THOMAS MARTIN,

Plaintiff(s)/Petitioner(s),

JAN 02 2008

vs.

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CASE NO. 1:07-CV-01661-AWI-WMW

BY C. ESTEVES
DEPUTY CLERK

M ROCHE, ET AL.,

Defendant(s)/Respondents(s).

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**CONSENT TO JURISDICTION OF
UNITED STATES MAGISTRATE JUDGE**

In accordance with the provisions of Title 28, U.S.C. Sec. 636(c)(1), the undersigned hereby voluntarily consents to have a United States Magistrate Judge conduct all further proceedings in this case, including trial and entry of final judgment, with direct review by the Ninth Circuit Court of Appeals, in the event an appeal is filed.

Date: 12-21-07

Signature: Elbert T. Martin

Print Name: ELBERT THOMAS MARTIN

☒ Plaintiff/Petitioner ☐ Defendant/Respondent

☒ Counsel for * IN PRO PER AND PRO SE



**DECLINE OF JURISDICTION OF
UNITED STATES MAGISTRATE JUDGE**

Pursuant to Title 28, U.S.C. Sec 636(c)(2), the undersigned acknowledges the availability of a United States Magistrate Judge but hereby declines to consent.

Date: _____

Signature: _____

Print Name: _____

☐ Plaintiff/Petitioner ☐ Defendant/Respondent

☐ Counsel for * _____

**If representing more than one party, counsel must indicate name of each party responding.*

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ELBERT THOMAS MARTIN,

Plaintiff,

CV F 07 1661 AWI WMW PC

vs.

TRANSFER ORDER

M. ROCHE, M.D., et al.,

Defendants.

Plaintiff is a state prisoner proceeding pro se and in forma pauperis pursuant to 42 U.S.C. § 1983.

Plaintiff is in the custody of the California Department of Corrections and Rehabilitation at the California Correctional Institution at Tehachapi. Plaintiff brings this case, claiming that he was subjected to constitutionally inadequate medical care in violation of the Eighth Amendment to the U.S. Constitution.

Though currently housed in Tehachapi, Plaintiff names defendants in Los Angeles, High Desert State Prison in Lassen County, the California Training Facility at Soledad in Monterey County and the California Men's Colony at San Luis Obispo, in San Luis Obispo County. Plaintiff also names defendants in Morris Plains, New Jersey.

The federal venue statute requires that a civil action, other than one based on diversity

1 jurisdiction, be brought only in “(1) a judicial district where any defendant resides, if all
2 defendants reside in the same state, (2) a judicial district in which a substantial part of the events
3 or omissions giving rise to the claim occurred, or a substantial part of the property that is the
4 subject of the action is situated, or (3) a judicial district in which any defendant may be found, if
5 there is no district in which the action may otherwise be brought.” 28 U.S.C. § 1391(b).

6 In this case, none of the defendants reside in this district. The claim arose in Los
7 Angeles County, Lassen County, Monterey County and San Luis Obispo County. Plaintiff also
8 names defendants in New Jersey. Therefore, Plaintiff’s claims regarding Los Angeles and the
9 California Men’s Colony should have been filed in the Central District. Plaintiff’s claims
10 regarding the Correctional Training Facility should have been filed in the Northern District.
11 Plaintiff’s claims regarding the New Jersey defendant should have been filed in the District of
12 New Jersey. In the interest of justice, a federal court may transfer a complaint filed in the wrong
13 district to the correct district. See 28 U.S.C. § 1406(a); Starnes v. McGuire, 512 F.2d 918, 932
14 (D.C. Cir. 1974).

15 Regarding the High Desert State Prison claims, Pursuant to Local Rule 3-120(b), a civil
16 action which has not been commenced in the proper court may, on the court’s own motion, be
17 transferred to the proper court. Therefore, the High Desert State Prison claims will be transferred
18 to the Sacramento Division. All future pleadings shall reference the new case number and be
19 filed at:

20
21 United States District Court
22 Eastern District of California
23 501 "I" Street, Suite 4-200
24 Sacramento, CA 95814

25 Accordingly, IT IS HEREBY ORDERED that:

26 1. The Clerk’s Office shall open a new case for transfer to each of the following districts:

1 Central District of California; Northern District of California; District of New Jersey.

2 2. Plaintiff's claims regarding Los Angeles and the California Men's Colony are
3 transferred to the Central District of California.

4 3. Plaintiff's claims regarding the Correctional Training Facility are transferred to the
5 Norther District of California.

6 4. Plaintiff's claims regarding the New Jersey defendants are transferred to the District of
7 New Jersey.

8 5. Regarding the High Desert State Prison claims, this action is transferred to the United
9 States District Court for the Eastern District of California sitting in Sacramento.

10 IT IS SO ORDERED.

11 **Dated: June 11, 2008**

/s/ William M. Wunderlich
UNITED STATES MAGISTRATE JUDGE

CLOSED, PRISONER_CIVIL_RIGHTS, TRANSFERRED_TO_SAC

**U.S. District Court
Eastern District of California - Live System (Fresno)
CIVIL DOCKET FOR CASE #: 1:07-cv-01661-AWI-WMW**

(PC) Martin v. Roche et al
Assigned to: Judge Anthony W. Ishii
Referred to: Magistrate Judge William M. Wunderlich
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 11/19/2007
Date Terminated: 06/12/2008
Jury Demand: None
Nature of Suit: 550 Prisoner: Civil
Rights
Jurisdiction: Federal Question

Plaintiff

Elbert Thomas Martin

represented by **Elbert Thomas Martin**
T-28520
CALIFORNIA CORRECTIONAL
INSTITUTION (107)
PO BOX 107
TEHACHAPI, CA 93581
PRO SE

V.

Defendant

M Roche
M.D.-High Desert State Prison

Defendant

R. Cox
M.D.-High Desert State Prison

Defendant

T Friederichs
*M.D.-California Training Facility-
Central*

Defendant

Cornell Clark
*M.D.-California Training Facility-
Central*

Defendant

MD Joseph Chudy
M.D.-California Training Facility-

Central

Defendant

C. Sinnaco

*M.D.-California Training Facility-
Central*

Defendant

R.A. Perez

*Lieutenant-California Training
Facility-Central*

Defendant

D. Carey

California Men's Colony

Defendant

T. Cook

*Facility Captain-California Men's
Colony*

Defendant

S. Stack

*Chief Psychiatrist-California Men's
Colony*

Defendant

G. Brownlee

Lieutenant-California Men's Colony

Defendant

M. Mee

California Men's Colony

Defendant

Donald A. Ramberg

M.D.-Medical Board Of California

Defendant

D. Engler

*CC II Specialist-California Men's
Colony*

Defendant

M. Vela

*CC II Specialist-California Men's
Colony*

Defendant

K. Sampson*CC II Counselor-California**Correctional Institution, Tehachapi***Defendant****Robert Meyers***M.D.-California Men's Colony***Defendant****D.L. England***Correctional Officer-California Men's**Colony***Defendant****B Dieball***Sergeant-California Men's Colony***Defendant****D. Carey***Associate Warden-California Men's**Colony***Defendant****John Marshall***Warden-California Men's Colony***Defendant****Anthony Wild***CEO, Parke-Davis*

Date Filed	#	Docket Text
11/19/2007	<u>1</u>	COMPLAINT (1983) against D. Carey(California Men's Colony), T. Cook, S. Stack, G. Brownlee, M. Mee, Donald A. Ramberg, D. Engler, M. Vela, K. Sampson, Robert Meyers, D.L. England, B Dieball, D. Carey(Associate Warden-California Men's Colony), John Marshall, Anthony Wild, M Roche, R. Cox, T Friederichs, Cornell Clark, Joseph Chudy, C. Sinnaco, R.A. Perez by Elbert Thomas Martin.(Scrivner, E) (Entered: 11/21/2007)
11/21/2007	<u>2</u>	MOTION/Application to PROCEED IN FORMA PAUPERIS by Elbert Thomas Martin. (Scrivner, E) (Entered: 11/26/2007)
12/17/2007	<u>3</u>	PRISONER NEW CASE DOCUMENTS ISSUED; (Attachments: # <u>1</u> Consent Forms) (Hellings, J) (Entered: 12/17/2007)
12/17/2007		SERVICE BY MAIL: <u>3</u> Prisoner New Case Documents for AWI served on Elbert Thomas Martin. (Hellings, J) (Entered: 12/17/2007)
12/18/2007	<u>4</u>	ORDER granting <u>2</u> Motion to Proceed in forma pauperis signed by Judge William M. Wunderlich on 12/18/2007. (Esteves, C) (Entered: 12/18/2007)

12/18/2007	5	ORDER DIRECTING MONTHLY PAYMENTS be made from Prison Account of ELBERT THOMAS MARTIN signed by Judge William M. Wunderlich on 12/18/2007. (Esteves, C) (Entered: 12/18/2007)
12/18/2007	6	FIRST INFORMATIONAL ORDER signed by Judge William M. Wunderlich on 12/18/2007. (Esteves, C) (Entered: 12/18/2007)
12/18/2007		SERVICE BY MAIL: 5 Order Directing Prisoner Payment, 6 Order, 4 Order on Motion to Proceed in forma pauperis served on Elbert Thomas Martin. (Esteves, C) (Entered: 12/18/2007)
01/02/2008	7	CONSENT to JURISDICTION by US MAGISTRATE JUDGE by Elbert Thomas Martin. (Esteves, C) (Entered: 01/04/2008)
06/12/2008	8	ORDER signed by Magistrate Judge William M. Wunderlich on 6/11/2008; CASE TRANSFERRED to the following Districts: Central District of California; Northern District of California and District of New Jersey; High Desert State Prison claims transferred to the Sacramento division for the Eastern District of California. New Sacramento case no. 2:08-cv-01323-CMK. Original file, certified copy of transfer order, and docket sheet sent. CASE CLOSED.(Esteves, C) (Entered: 06/12/2008)
06/12/2008	9	TRANSMITTAL of DOCUMENTS on *6/12/2008* to * Clerk, Central District of California* *312 N. Spring Street* *Los Angeles, CA 90012*. ** *Electronic Documents: 1 to 8. *. (Esteves, C) (Entered: 06/12/2008)
06/12/2008	10	TRANSMITTAL of DOCUMENTS on *6/12/2008* to * Clerk, Northern District of California* *450 Golden Gate Ave.* *San Francisco, CA 94102*. ** *Electronic Documents: 1 to 8. *. (Esteves, C) (Entered: 06/12/2008)
06/12/2008	11	TRANSMITTAL of DOCUMENTS on *6/12/2008* to * District of New Jersey* *50 Walnut Street* *Room 4015* *Newark, NJ 07101*. ** *Electronic Documents: 1 to 8. *. (Esteves, C) (Entered: 06/12/2008)

PACER Service Center			
Transaction Receipt			
06/20/2008 15:07:28			
PACER Login:	us4077	Client Code:	
Description:	Docket Report	Search Criteria:	1:07-cv-01661-AWI-WMW
Billable Pages:	2	Cost:	0.16